

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Mohamed Aly Saad Aly,

File No. 12CV1960
(JRT/FLN)

Petitioner,

vs.

Minneapolis, Minnesota

November 14, 2012

Amal Aden,

9:38 A.M.

Respondent.

BEFORE THE **HONORABLE JOHN R. TUNHEIM**
UNITED STATES DISTRICT COURT JUDGE
(EVIDENTIARY HEARING-VOLUME II)

APPEARANCES

For the Petitioner:

Walling, Berg & Debele, PA
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LILLO KAISER, ESQ.
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For the Respondent:

Robins Kaplan Miller & Ciresi
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DAVID P. SWENSON, ESQ.
KATHERINE K. BRUCE, ESQ.
ANDREA C. YANG, ESQ.
LAURA E. NELSON, ESQ.
Suite 2800
800 LaSalle Avenue
Minneapolis, MN 55402

Present via phone:

Mohamed Aly Saad Aly

Court Reporter:

KRISTINE MOUSSEAU, CRR-RPR
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Proceedings recorded by mechanical stenography;
transcript produced by computer.

KRISTINE MOUSSEAU, CRR-RPR
(612) 664-5106

1 9:38 A.M.

2

3

(In open court.)

4

THE COURT: You may be seated. Good morning,

5

everyone. We are ready to continue this morning.

6

What's our first step, Ms. Berg?

7

MS. BERG: I think I want to finish -- I want to

8

finish redirect of Mr. Aly Saad Aly.

9

THE COURT: Okay. Let's proceed with that, then.

10

He's on the phone?

11

MS. BERG: Mohamed?

12

MR. ALY SAAD ALY: Yes, ma'am.

13

MS. BERG: All right. Thank you.

14

15

MOHAMED ALY SAAD ALY (Via telephone),

16

after having been previously duly sworn, was examined and

17

testified as follows:

18

REDIRECT EXAMINATION

19

BY MS. BERG:

20

Q. Did you hear the testimony of Ms. Boyle yesterday?

21

A. Yes, ma'am, I did.

22

Q. Ms. Boyle is speculating based on the fact that you're

23

Egyptian that you ascribe to all of the cultural beliefs

24

she associates with Egypt, is that correct?

25

A. No, ma'am. That's not correct.

1 Q. What is?

2 A. First of all, none of my family members that are
3 females are circumcised. This is a very old habit that is
4 currently only done in rural areas and being watched by the
5 government so strictly, so it's illegal for any, any
6 practitioners to do so.

7 So neither me nor my family believe this, and
8 second of all, I don't live in Egypt. I live in Canada,
9 and so third of all, my wife, herself being Somalian, her
10 family, her mother, she was asking us so many times about
11 when are you going to do this to our daughter and the way
12 to do it. I was rejecting so many times about this.

13 Q. Mohamed, I'm going to ask you to summarize your
14 statements again more slowly. Again you have to speak very
15 slowly for us to understand.

16 A. Okay, ma'am. This, this, this, this practice is, was
17 done in the rural area in Egypt, and this is long time ago,
18 which is now it's illegal to be practiced in the country,
19 and there is no doctor or nurse or anybody in the medical
20 field allowed to do so, otherwise it would be asked
21 illegally.

22 None of my family members, female family members,
23 have been circumcised. I was born and raised in Cairo in a
24 big city, so none of my family live in the village. Third
25 of all, most men don't believe in this to be raised Islam,

1 and last but not least, my wife, herself coming from
2 Somalian culture, they do this even more than Egyptian
3 does, and on several occasions, she and her mother ask me
4 about when are you going to do this to Hafsah the Somalian
5 way, and I was refusing so badly.

6 Q. All right. Now, it's also been suggested that you're a
7 Salafi Muslim, which would mean I guess the link is that
8 you also, as a Salafi Muslim, would advocate these
9 practices. Are you Salafi?

10 A. No, I'm not, ma'am.

11 Q. But you are strictly --

12 A. I'm a Muslim that pray and fast. I don't find myself
13 in any of those. I do not name myself. I'm just a Muslim.

14 Q. Okay. What is a Salafi Muslim?

15 A. It is a group of people that want to apply whatever in
16 the Koran has been for 300 years ago now literally, not
17 taking the cultural aspects or the events in the culture in
18 respect. So that's what I was -- I was learning from
19 Ms. Boyle yesterday, and I think there they are more
20 fundamentalist than others.

21 Q. Now, we're going to change topics, Mohamed, and talk
22 about this Acer laptop that you had in June of 2012.

23 A. Yes, ma'am.

24 Q. Did we understand your testimony correctly that you
25 purchased an Acer in order to write a paper and then

1 returned it to the store?

2 A. Actually because my, my, my wife has took the computer
3 that I was using and, you know, was bought and using
4 personally, and she left me at a very important time to me
5 as a grad student, which is preparing for my proposal. In
6 order to prepare for my proposal and I need to prepare a
7 Power Point presentation, and I need to have a laptop with
8 me during the presentation.

9 So I purchased an Acer laptop which is the
10 cheapest brand. That's the reason I purchased an Acer
11 laptop, and then three weeks, two weeks or three weeks, I
12 returned it back to the store. That's why I happened to be
13 at the same time that the police came to my house.

14 Q. All right.

15 Your Honor, if I could take a moment?

16 THE COURT: You may.

17 BY MS. BERG:

18 Q. One other question, Mohamed.

19 A. Yes, ma'am.

20 Q. Did you assume responsibility for caring for Princess?

21 A. I do.

22 Q. And did you during the time that the two -- you and
23 respondent were living together, did you assume primary
24 responsibility for caring for Princess?

25 A. Yes, ma'am.

1 Q. And was that during the period of time that she would
2 go to work at the hospital?

3 A. Even during the weekdays, she, more than one time, she
4 said to me, I'm tired, come take care of your daughter. So
5 I changed diapers. I prepared meals. I give her baths. I
6 enjoy doing this. I was even with Princess Hafsah in the
7 operation room when she was delivered.

8 So I did everything that, that any mother could
9 do. I did everything almost, and beside that, Saturday and
10 Sunday I was carer of Princess Hafsah fully.

11 Q. Mohamed, why do you think that respondent has made
12 these claims of domestic violence and claims she had to
13 flee Canada?

14 MS. YANG: Objection.

15 THE COURT: Just a minute.

16 MS. YANG: Objection. Speculation.

17 THE COURT: I couldn't hear you.

18 MS. YANG: Speculation.

19 THE COURT: Overruled. Go ahead.

20 BY MS. BERG:

21 Q. Go ahead, Mohamed.

22 A. I believe because she doesn't have -- her motive at the
23 beginning, as she told my mother and told me, the jealousy.
24 She was under impression or believed that I was married to
25 a woman in Egypt, which is not true. I divorced this woman

1 almost a year before, and so there is no other reason.

2 So in order to justify her leave, she has to make
3 this up or assume this.

4 MS. BERG: I have nothing further, Your Honor.

5 THE COURT: Any recross?

6 MS. YANG: Very briefly, Your Honor.

7 THE COURT: Go ahead.

8

9 **RECROSS-EXAMINATION**

10 BY MS. YANG:

11 Q. Mr. Saad Aly Saad, this is Ms. Yang.

12 A. Yes, ma'am.

13 Q. So it's your testimony right now that this Acer laptop,
14 the second laptop, was something that you held onto for
15 about three weeks, and then you returned it, correct?

16 A. Two to three weeks as far as I remember.

17 Q. All right. I want you to turn back to Respondent's
18 Exhibit 75, page 10.

19 A. One second, please. Tell me the number at the bottom,
20 please, the Aden 000.

21 Q. Yes. Aden 00082.

22 A. Okay, ma'am.

23 Q. I want you to go down to the fifth paragraph on the
24 page starting, Officer Diaz: What would she use?

25 Do you see that paragraph?

1 A. Yes.

2 Q. That paragraph reads, Diaz: What would should use,
3 that laptop?

4 And your response was: She used to, this laptop.
5 That power supply was not working. It was left in the
6 closet for almost six months.

7 That's what you said, correct?

8 A. I was referring to the laptop she took, ma'am.

9 MS. YANG: Thank you. No further questions.

10 THE COURT: Anything further, Ms. Berg?

11

12 **REDIRECT EXAMINATION**

13 BY MS. BERG:

14 Q. Mohamed, this is Nancy again.

15 A. Yes, ma'am.

16 Q. Do you understand why they're questioning your
17 statement that you were using -- the laptop she took with
18 her was the one you were using?

19 A. I understand. I say the truth, and the Acer laptop
20 that, that we using, we were using when she was living in
21 Canada, I swear she took it with her, along with her other
22 laptop, and I have to buy another laptop to get my proposal
23 done.

24 Q. All right. But you told the police that the Acer
25 laptop wasn't working and was in the closet. So what

1 laptop were you working on at the time she left and took
2 that laptop with her? What was it?

3 A. When she left I didn't have any laptop, but when the
4 police came, a few days before the police came, I purchased
5 the laptop to go to my proposal.

6 Q. No. Stop, Mohamed. That's not what I asked you.

7 A. Okay.

8 Q. At the time she left --

9 A. I had no laptop at all.

10 Q. Before she left, did you have a laptop?

11 A. Before she left, we were -- this laptop that you're
12 talking about, it was left in the closet for six months.
13 We back -- it's kind of like, it was, you know --

14 Q. Mohamed, we understand that.

15 A. Yes. We were using the same computer, but it was like
16 on and off. This computer was like sometime work, sometime
17 does not work. Kind of like a short circuit inside the
18 laptop. Sometimes it's connected, we use it. Sometimes
19 it's not connected, we don't use it.

20 Q. What was the brand of the computer -- she took two
21 computers with her, correct?

22 A. Yes.

23 Q. What were the brands of the two computers?

24 A. I believe hers was either Toshiba or Sony, and the
25 other computer that we bought using, it was Acer.

1 Q. All right.

2 A. An old Acer.

3 Q. All right. And were you using her Sony or Toshiba
4 computer for your work?

5 A. No, because she drop it, and she broke it, and it was
6 like completely 100 percent dead.

7 Q. Okay. So am I correct in understanding at the time
8 respondent left, you didn't have a working laptop computer?

9 A. No, I did not, ma'am.

10 MS. BERG: All right. Thank you.

11 THE COURT: Anything else, Ms. Yang?

12 MS. YANG: Nothing further.

13 THE COURT: All right. Very well. Let's move on
14 to the next witness, then.

15 **(Witness excused.)**

16 MS. BERG: Ms. Kaiser will handle this witness.

17 THE COURT: Very well.

18 MS. BERG: Mohamed, go on mute again, please.

19 MR. ALY SAAD ALY: Yes, please.

20 MS. KAISER: Your Honor, I would like to call our
21 next witness, Helen Gladkykh.

22 Ms. Gladkykh, are you on the line?

23 MS. GLADKYKH (Via telephone): Yes, I am.

24 MS. KAISER: Could you please -- you're going to
25 be sworn in.

1 (Witness sworn.)

2 THE COURT: Okay. You may proceed, Ms. Kaiser.

3 MS. KAISER: Thank you.

4

5 HELEN GLADKYKH (Via telephone),
6 after having been first duly sworn, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. KAISER:

10 Q. Ms. Gladkykh, you've stated your name for the record.
11 Could you tell us your occupation?

12 A. I'm a barrister, solicitor and notary public,
13 practicing in Canada and Ontario.

14 Q. And I would like to direct you to the report you
15 created for this proceeding. Do you have it before you?

16 A. Yes, I have it in front of me.

17 Q. It is dated October 11th, 2012?

18 A. Correct.

19 MS. KAISER: And for the record, Your Honor, it
20 is Petitioner's Exhibit 27.

21 THE COURT: Okay.

22 BY MS. KAISER:

23 Q. Ms. Gladkykh, could you please describe to the Court
24 your education and experience as it relates to this report?

25 A. My educational degrees include a Bachelor of Arts in

1 Administration, Juris Doctorate from the Belarusian State
2 University and LLB, which is Bachelor of Law Degree, from
3 the University of Windsor in Canada, which was converted in
4 2011 to a Juris Doctor Degree.

5 I'm a member in good standing with the Law
6 Society of Upper Canada, Ontario, and I have private law
7 practice in Cambridge, Ontario, and specialize in family
8 law.

9 Q. Ms. Gladkykh, in this report, you describe the
10 conditions that exist in the province of Ontario, these
11 conditions which exist to protect children and families.
12 Would you please describe -- would you describe Canada as
13 tolerant towards domestic violence?

14 A. Absolutely not.

15 Q. Could you please describe for us the family violence
16 initiative that you discuss in your report?

17 A. The family violence initiative is a long-term
18 commitment of the government of Canada to address violence
19 within the relationship of kinship, intimacy, dependency or
20 child, and there are several government agencies that
21 participate in this initiative.

22 And the Public Health Agency of Canada leads and
23 coordinates this initiative. This initiative promotes
24 public awareness of the risk and factors associated with
25 family violence, and it works with government research and

1 community partners. This is a significant federal force to
2 reduce family violence in Canada, and in particular in
3 Ontario.

4 The issue of family violence has been integrated
5 into ongoing programming in many government departments,
6 and so far, we have learned that the best way to address
7 family violence is to support a common vision and advance a
8 coordinated approach.

9 Q. I was -- could you describe the obligation that Ontario
10 citizens have in reporting child abuse or instances of
11 domestic violence?

12 A. Section 72 of the Child and Family Services Act
13 provides that despite the provisions of any other act, if a
14 person, including persons which perform professional or
15 official duties with respect to children, but not limited
16 only to professionals, all people have -- who have
17 reasonable grounds to suspect that a child is subject to
18 moral, physical or sexual abuse have positive obligation to
19 report such suspicions and information to the government
20 agencies.

21 And one of the government agencies that deals
22 with such situations is Children and Family Services.

23 Q. So this obligation extends beyond just professionals?

24 A. Yes. This is obligation that extends beyond
25 professionals. In case of certain professionals, including

1 healthcare providers and teachers and day-care providers,
2 failure to report can lead to criminal prosecution under
3 the criminal code of Canada.

4 Q. What type of resources are available to the Canadian
5 courts to assist and -- to assist families who maybe
6 experienced domestic violence or where allegations have
7 been brought domestic violence occurred?

8 A. Victims of family violence in Canada and in particular
9 in Ontario and in Kitchener regions have various resources
10 available to them, and those resources include assistance
11 of police and ambulance services, counseling services,
12 crisis lines and distress centers, house clinics and
13 hospitals, legal assistance, transitional houses, victim
14 services.

15 In addition to that, there are legal sources that
16 are available, which include restraining orders, orders
17 with exclusive possession of the matrimonial home,
18 supervised access and criminal sanctions.

19 Q. Could you describe what supervised access is?

20 A. Certainly. Section 34 of the Children's Law Reform Act
21 provides that where an order is made for custody or access
22 to a child, a court may give such directions as it
23 considers appropriate for the supervision of the custody or
24 access by a person, a children's aid society or other body.

25 The parent seeking the supervision of access has

1 the burden of proof that supervision is appropriate, and
2 supervised access can be provided by either a relative or a
3 government body. There are different types of supervised
4 access, and there are different types of facilities
5 available for supervised access.

6 So in case the Court decides that there is at
7 least a minimal risk of violence towards the child, the
8 Court has obligation to impose supervised access regime on
9 that child so that all the parents could have access to the
10 child only during the supervised time.

11 Q. In the event that this Court returns the parties'
12 daughter to Canada, what proceedings would be available to
13 respondent or in the event she has safety concerns for her
14 daughter or herself?

15 A. As the Court is probably aware, the mother of the
16 child, Amal Aden, is the respondent in an ongoing family
17 court proceedings initiated by the father, Mr. Mohamed Aly
18 Saad Aly, and if she returns to Canada, she can fully
19 participate in such court proceedings.

20 And if she wishes and if the Court finds this
21 request reasonable, she can obtain custody order with
22 respect to the child, and she can obtain any other
23 assistance that is available through the Court or through
24 the police or medical services, and all undertakings that
25 are described in my letter dated October 11th would be

1 available for Ms. Aden to use in Canada and Ontario.

2 MS. KAISER: Thank you, Ms. Gladkykh. I have no
3 further questions at this time.

4 THE COURT: Is there cross-examination?

5 MS. NELSON: Briefly, Your Honor. Thank you.

6 THE COURT: Go right ahead.

7

8 **CROSS-EXAMINATION**

9 BY MS. NELSON:

10 Q. Good morning, Ms. Gladkykh. My name is Laura Nelson.

11 I'm one of the attorneys for the respondent in this case.

12 A. Good morning.

13 Q. Now, it's not your testimony that the Canadian systems
14 are able to prevent all domestic violence in Canada, right?

15 A. Could you repeat your question?

16 Q. Sure. It's not your testimony that the Canadian legal
17 and social services systems are able to prevent all
18 domestic violence in Canada, right?

19 A. The system in Canada tries to address as many as
20 possible ways to prevent violence in Canada, but I don't
21 know any system in the world that can prevent it totally,
22 including the U. S. system.

23 Q. So that's a yes, right? It's not your testimony that
24 the Canadian systems are able to prevent all domestic
25 violence?

1 A. Correct.

2 Q. And it's not your testimony that the Canadian legal and
3 social systems are able to prevent all child abuse in
4 Canada, right?

5 A. Correct. Child abuse exists in all countries in the
6 world, but Canada is --

7 Q. Okay. Hold on.

8 A. -- one of the leading countries --

9 Q. Ms. Gladkykh? Ms. Gladkykh?

10 THE COURT: Just let her finish. Go ahead.

11 BY MS. NELSON:

12 Q. Okay. It is a little difficult because you are on the
13 phone, but I want you just to listen to my question.

14 A. I am trying to answer your questions as fully as I can.

15 Q. Okay. Ms. Gladkykh, you're aware that women have been
16 and continue to be killed by their husbands in Canada,
17 right?

18 A. There are certain cases, definitely, yes.

19 Q. And you're aware that children have been and continue
20 to be killed by family members in Canada, right?

21 A. Correct. As I said, it's in any country in the world,
22 yes.

23 Q. Okay. And if the Ministry of Industries family
24 violence in Canada statistical profile from 2009 showed
25 that over one-third of all solved homicides were committed

1 by family members in Canada, that wouldn't surprise you?

2 A. I'm not familiar with this specific statistic, but I
3 wouldn't be surprised because family violence exists in any
4 country, yes.

5 Q. And that's just by all of the policies and procedures
6 that you testified to, right?

7 A. Correct.

8 Q. Okay. Now, in writing your letter, you didn't consider
9 any research into the specific experience of undocumented
10 immigrant domestic violence victims in Canada, did you?

11 MS. BERG: Objection. Relevance.

12 THE COURT: Overruled.

13 THE WITNESS: I was not asked to provide evidence
14 on that specific issue.

15 BY MS. NELSON:

16 Q. So that's a no, Ms. Gladkykh?

17 A. No.

18 Q. And you didn't consider the implications of a victim
19 not having legal immigration status in Canada?

20 A. For citizens of the United States, there are not so
21 many limitations, and definitely if immigrant from any
22 country, including the United States, has, is subject to
23 family violence in Canada, all of those undertakings are
24 available to such person, and it doesn't matter whether
25 it's a Canadian citizen or immigrant.

1 Q. It's true, Ms. Gladkykh, isn't it, that immigrant women
2 who do not have legal status in Canada who are victims of
3 domestic violence can potentially face being detained or
4 deported after calling the police or Social Services,
5 right?

6 A. If they're illegal immigrants, yes, but not all
7 immigrants are illegal immigrants.

8 Q. Right. I'm specifically asking you about immigrants
9 who do not have legal status. That's correct, right?

10 A. There is a possibility that they will be deported. In
11 other cases, they can apply for refugee status in Canada.

12 Q. Okay. Ms. Gladkykh, you are Mr. Aly Saad Aly's
13 attorney in Canada for the custody proceedings there,
14 correct?

15 A. Correct.

16 Q. And you are being compensated for that work through a
17 Legal Aid certificate, correct?

18 A. Correct.

19 Q. And you're not licensed to practice law in Minnesota,
20 right?

21 A. No.

22 Q. So if this Court denies Mr. Aly Saad Aly's petition and
23 further custody proceedings are here in Minnesota, you
24 wouldn't be able to represent him in those proceedings,
25 right?

1 A. I have no authorization to practice in the United
2 States.

3 MS. NELSON: Thank you, Ms. Gladkykh. No further
4 questions.

5 THE COURT: Anything else, Ms. Kaiser?

6

7

REDIRECT EXAMINATION

8 BY MS. KAISER:

9 Q. Ms. Gladkykh, my final question for you: Do you agree
10 with respondent's theory of the case, which is that
11 prevention of child abuse is best dealt with by child
12 abduction?

13 MS. NELSON: Objection, Your Honor.

14 THE WITNESS: Absolutely not.

15 THE COURT: Just a moment. I'm sorry. Objection
16 basis?

17 MS. NELSON: Excuse me. This goes beyond the
18 scope of her report. It's not a disclosed opinion, and
19 it's not a fair, accurate or credible recitation of the
20 facts.

21 THE COURT: I'm not sure it has much value, but
22 I'll overrule the objection.

23 Go ahead. You may answer the question.

24 THE WITNESS: Thank you, Your Honor.

25 Child abduction is, should not be the way of

1 dealing with legal problems. The child's residence was in
2 Canada, and this was the proper venue of deciding the case
3 and any issues that the applicant and respondent had with
4 respect to the child.

5 MS. KAISER: Thank you, Ms. Gladkykh. I have no
6 further questions.

7 THE COURT: Anything else, Ms. Nelson?

8 MS. NELSON: Nothing further, Your Honor.

9 THE COURT: Okay. Very well.

10 Thank you, Ms. Gladkykh. We're done with you.

11 THE WITNESS: Thank you, Your Honor.

12 **(Witness excused.)**

13 THE COURT: Okay. Next witness?

14 MS. YANG: I call Jeffrey Edleson, who I suspect
15 may be --

16 MR. SWENSON: I think there may be --

17 MR. EDELSON (Via telephone): Yes, I'm on the
18 phone.

19 MS. BERG: All right. Just a minute,
20 Mr. Edleson.

21 Dalia, are you on the line?

22 MR. ALY SAAD ALY: She's supposed to be there in
23 five minutes, ma'am.

24 MS. BERG: Oh, in five minutes. All right. We
25 told her 10:15.

1 THE COURT: Okay. So who do you want to proceed
2 with now?

3 MS. BERG: Let's see if we can get her on right
4 now.

5 THE COURT: Okay.

6 MS. BERG: Mohamed, Jen is going to see if she
7 can get her on right now.

8 MR. ALY SAAD ALY: Yes, she will be -- she might
9 be able to get now.

10 MS. BERG: Mohamed, would you send her a message
11 to get on the phone?

12 MR. ALY SAAD ALY: I did, ma'am. I just did.

13 MS. BERG: Okay. Good. Whoever is typing,
14 please put it on mute.

15 **(Pause.)**

16

17 **(In open court.)**

18 THE COURT: Since we're still waiting, why don't
19 we take about a five-minute break here and take our break
20 now rather than in about 15, 20 minutes when I planned.
21 Okay?

22 MS. BERG: My apologies.

23 MR. ALY SAAD ALY: Thanks, sir.

24 THE CLERK: All rise.

25 **(Recess taken.)**

1 (In open court.)

2 THE COURT: Okay. Do we have the next witness on
3 the phone yet?

4 You may be seated.

5 MS. BERG: We had her, and then we asked her to
6 call back because of the background buzz. They're all
7 using calling cards, so that's what is slowing things down.
8 This is a five-minute witness.

9 If you want to go ahead with Edleson, and if we
10 can interrupt?

11 THE COURT: Let's do that.

12 MS. YANG: I call Jeffrey Edleson.

13 Dr. Edelson, are you on the phone?

14 MR. EDELSON (Via telephone): I am on the phone.

15 MS. YANG: This is Andrea Yang.

16 MR. EDELSON: Hi, Andrea.

17 THE COURT: All right. Just a moment.

18 (Witness sworn.)

19 THE COURT: Okay, Ms. Yang. You may proceed.

20 MS. YANG: In the interests of time, counsel for
21 petitioner have agreed to the qualifications of
22 Dr. Edelson, and so we would offer to that extent exhibits,
23 Respondent's Exhibit 42, which is a curriculum vitae, and
24 Respondent's Exhibit 43, a biographical sketch, into
25 evidence.

1 THE COURT: Any objection?

2 MS. BERG: Yes, Your Honor. Again, we renew our
3 objection. This testimony is speculative, and it is not
4 grounded in fact. It is founded on stories told by
5 respondent, and we would move to exclude.

6 THE COURT: All right. I'm going to overrule the
7 objection. 42 and 43 are admitted, and you may proceed,
8 Ms. Yang.

9 MS. YANG: Thank you.

10

11 **JEFFREY EDELSON (Via telephone),**

12 after having been first duly, was examined and testified as
13 follows:

14 **DIRECT EXAMINATION**

15 BY MS. YANG:

16 Q. Dr. Edelson, have you been retained to reach an expert
17 opinion in this case?

18 A. I've been retained, but I am not being paid.

19 MS. BERG: Your Honor, if I could request. I
20 have great difficulty hearing Ms. Yang. I'm not sure if
21 her voice is soft.

22 THE COURT: Move the other microphone down.

23 MS. MOTALEB (Via telephone): Hello?

24 MS. BERG: Dalia, we had to go ahead and start.

25 What do you want me to do? We're going to have this

1 background buzz.

2 THE COURT: She is a short witness?

3 MS. BERG: Short witness.

4 THE COURT: Let's take care of her. I'm sorry,
5 Mr. Edelson. We're going to put you on hold for less than
6 five minutes.

7 MR. EDELSON: Thank you. I will put my phone on
8 hold.

9 THE COURT: We need to have the new witness sworn
10 in.

11 Why don't you officially call her, Ms. Berg?

12 MS. BERG: At this time, petitioner calls Dalia
13 Motaleb.

14 THE COURT: Okay. Just a moment.

15 **(Witness sworn.)**

16 THE COURT: All right. You may proceed,
17 Ms. Berg.

18

19 **DALIA MOTALEB (Via telephone),**
20 after having been first duly sworn, was examined and
21 testified as follows:

22 **DIRECT EXAMINATION**

23 BY MS. BERG:

24 Q. Ms. Motaleb, do you know the parties in this
25 proceeding?

1 A. I know one of the party, yes.

2 Q. And is that Mohamed?

3 A. Yes.

4 Q. How long have you known him?

5 A. Since 2008.

6 Q. And have you ever met Ms. Aden?

7 A. I have not.

8 Q. Okay. Did you have occasion in June of 2012 to be
9 present at Mr. Aly Saad Aly's home during a telephone
10 conversation he had with his wife?

11 A. Yes.

12 Q. And did you hear that conversation?

13 A. I did.

14 Q. Why did you hear the conversation? How were you able
15 to hear the conversation?

16 A. The phone rang, and Mohamed was looking for the headset
17 which wasn't attached to the base, and so he was looking
18 around his apartment and he couldn't find the headset, but
19 then he came back to the base and just put the speaker on.

20 Q. And do you know who was on the other end of the line?

21 A. It was a woman who identified herself as Amal.

22 Q. And can you tell us the substance of the conversation?

23 A. The conversation went something like, the woman on the
24 other line said hi, Mohamed this is or salaam, Mohamed,
25 this is Amal.

1 Mohamed said, how are you and Hafsah. She said
2 fine. Then she went to say we, and I didn't understand
3 what she was talking about, but she said, we have
4 communicated before. I'm not trying to trick you. I only
5 did the police protection because the police came to my
6 door, and I can't afford to have the police come to my door
7 often.

8 And in response Mohamed said, you took away, you
9 took away my daughter, so expect the police to come more
10 often. Then she got upset and said something, and Mohamed
11 hung up the phone.

12 Q. Okay.

13 Thank you, I have nothing further.

14 THE COURT: Cross-examination?

15

16 **CROSS-EXAMINATION**

17 BY MR. SWENSON:

18 Q. Ms. Motaleb, this is David Swenson. Can you tell me
19 what language was Amal speaking when she made the phone
20 call at that time?

21 A. English.

22 Q. So she was not speaking Arabic. Is that your
23 testimony?

24 A. Yes.

25 Q. And so the conclusion of the telephone call you heard

1 was Mohamed threatening Amal that he was going to send the
2 police to her again, is that correct?

3 A. No.

4 Q. I'm sorry. Wasn't it your testimony that the police
5 would be visiting her again if she didn't return the child?

6 A. He made a statement, I believe.

7 Q. So it was a statement, not a threat?

8 A. Right.

9 MR. SWENSON: Okay. Thank you. No further
10 questions.

11 MS. BERG: Nothing -- nothing further.

12 THE COURT: Okay. Thank you, Ms. Motaleb. We're
13 done with you, so you can hang up now. Thank you very
14 much.

15 THE WITNESS: You're welcome. Bye.

16 **(Witness excused.)**

17 THE COURT: We'll return now to Mr. Edelson.
18 Are you still on the phone?

19 MR. EDELSON: I am now, Your Honor.

20 THE COURT: Okay.

21 MR. EDELSON: Can you hear me clearly?

22 THE COURT: Yes, we can hear you just fine, and
23 Ms. Yang will question you now.

24 MR. EDELSON: Okay.

25

1 **JEFFREY EDELSON (Via telephone),**
2 after having been previously duly sworn, was examined and
3 testified as follows:

4 **DIRECT EXAMINATION (Resumed)**

5 BY MS. YANG:

6 Q. Dr. Edelson, how are you familiar with the specific
7 facts of this case?

8 A. Well, I've read through most of the documents. I have
9 four, five volumes here in my office and Mr. Aly Saad Aly's
10 petition and the supporting affidavit. I have read Mrs. --
11 Ms. Aden's counter petition, the protection order from
12 Anoka County.

13 Q. And for the protection order from Anoka County, which
14 one are you referring to?

15 A. The one I see is June 6th, 2012.

16 Q. And that's the one that Ms. Aden sought against Mr. Aly
17 Saad Aly, correct?

18 A. True. Yes. And then the order for protection granted
19 to Nora Roundtree in Louisiana in January of 2002. I also
20 interviewed Ms. Aden last month in October. I did not
21 interview the child, the infant, because she is too young
22 really to interview, and I did listen to expert
23 testimony -- to the Aly Saad Aly, Mohamed Aly Saad Aly's
24 testimony yesterday and his mother's testimony and then
25 this morning the testimony starting at 10:00 a.m. your

1 time.

2 Q. And, Dr. Edelson, did you review any police records in
3 connection with this case?

4 MS. BERG: Objection, Your Honor. May I voir
5 dire Mr. Edelson briefly? He testified that he listened to
6 Aly Saad Aly's testimony yesterday. It's our understanding
7 that he did not.

8 MR. EDELSON: I was --

9 THE COURT: Just a moment. I think he listened
10 to part of it, but you may ask him a question about that,
11 Ms. Berg.

12

13 **VOIR DIRE EXAMINATION**

14 BY MS. BERG:

15 Q. Mr. Edelson, what time did you call in?

16 A. Let me look at my schedule. It was right after your
17 lunch break when he testified about police, three different
18 police events.

19 Q. So you did not hear any of the testimony during the
20 morning?

21 A. I heard some before that, but probably not all of it.
22 Correct.

23 MS. BERG: Thank you.

24 THE COURT: Okay. Go ahead.

25 MS. YANG: Thank you.

1 **DIRECT EXAMINATION (Resumed)**

2 BY MS. YANG:

3 Q. Dr. Edelson, after reviewing these materials and
4 listening to the testimony you described, have you formed
5 any opinions related to this case?

6 A. Yes, I have, and I do believe that there is a grave
7 risk of physical harm and psychological harm to the infant
8 child involved in this case.

9 MS. BERG: Objection. Lack of foundation.

10 THE WITNESS: Should she be returned --

11 THE COURT: Just a moment, Mr. Edelson.

12 THE WITNESS: Okay. Sorry.

13 THE COURT: Go ahead, Ms. Berg.

14 MS. BERG: Your Honor, we object to the
15 expounding of an opinion at this point. There is no
16 foundation that he has relied on credible information in
17 forming this opinion.

18 THE COURT: Okay. Well, I'm going to overrule
19 the objection. I will allow him to state his opinions, and
20 obviously those issues are issues for cross-examination.

21 Go ahead.

22 BY MS. YANG:

23 Q. Dr. Edelson, are your opinions contained in an expert
24 report labeled Respondent Exhibit 41?

25 A. Yes.

1 MS. YANG: Your Honor, we offer Respondent's
2 Exhibit 41 into evidence.

3 MS. BERG: Previous objections as noted.

4 THE COURT: Very well. Exhibit 41 is admitted.
5 Objection is overruled.

6 BY MS. YANG:

7 Q. Dr. Edelson, are there any risk factors in this case
8 that lead you to your conclusions today?

9 A. Well, I think there is four major risk factors that I
10 see in the record here. One is the prior record of
11 violence as documented in police reports, both in Canada,
12 in the restraining order filing in Anoka County and then in
13 the restraining order for the prior wife in Louisiana, so
14 evidence of prior violence.

15 Again, Mr. Aly Saad Aly's threat, alleged threat
16 to kill Ms. Aden, their estrangement which is a key factor
17 in future danger, and I can talk more about that. And then
18 I put all of this in a context of what I would -- what's
19 been labeled in the scholarly literature as coercive
20 control, but it's a pattern of coercive behaviors.

21 And there are a number of other behaviors in
22 addition to the prior violence, the threats to kill and
23 estrangement that together add up to a, for me, a very
24 dangerous situation for both Ms. Aden and the infant
25 involved in this case.

1 Q. And, Dr. Edelson, the prior violence, the threat to
2 kill, the estrangement and the coercive control factors,
3 what are these factors based on? Are there studies?

4 A. Yeah. There are many studies, and I believe those are
5 in one of the exhibit books. In particular, I rely a lot
6 on Jaclyn Campbell's work. Jackie Campbell is an endowed
7 professor at Johns Hopkins University, and she is a member
8 of the Institute of Medicine, which is an honorific and
9 scientific society, a national society.

10 And she is really the international expert on
11 intimate partner homicide and has studied what she calls
12 femicide, the killing of women partners in intimate
13 relationships, and in particular her classic study in 2003
14 that looked at partner homicides and key factors in
15 predicting those homicides.

16 I also base it on my own work with -- on the
17 Hague Convention and domestic violence cases where the
18 Hague Convention was invoked, and I have a new book that
19 will be out. It's actually not listed in the materials
20 here, but it is in my CV, a new book that will be out this
21 month that is a study funded by the Natural Institute of
22 Justice.

23 I believe the report is in the exhibits. That is
24 the first national study of domestic violence cases that
25 involved international child abduction and were Hague cases

1 in U. S. courts in the U. S., and then also on some
2 European studies and in particular the book by Evan Stark
3 on coercive control and some of the work by Mary Ann Dutton
4 on coercive control.

5 Q. Now I would like to talk about the first risk factor
6 you addressed, that of prior violence.

7 A. Yes.

8 Q. Why is prior violence important to consider?

9 A. Well, prior violence is very important to consider
10 because if you look in particular at Dr. Campbell's 2003
11 study, she found that prior violence was a key risk factor
12 for future violence, and that runs through the literature.

13 But in particular, prior violence increased
14 dramatically, the likelihood of future violence increased
15 dramatically if prior violence had occurred in the
16 relationship, and that's somewhat logical. Also, if there
17 were threats to kill, the likelihood of future violence and
18 even femicide, homicide, increased by two and a half times.

19 So there is a fair amount of evidence, not only
20 in Dr. Campbell's work but others', that prior violence is
21 probably the key predictor of future violence.

22 Q. Dr. Edelson, how did you apply the prior violence risk
23 factor in this particular case?

24 A. Well, I mean, my understanding of the case from what I
25 saw in the record from Nora Roundtree from Louisiana that

1 there was, you know, physical abuse of her, punishment of
2 her by squeezing her jaw, withholding -- and then there was
3 coercive control as well, threatening to take away her
4 baby, threats against her, she would be sorry later, and
5 punched her and -- punched her when she would not wake up
6 and tend to his needs.

7 So there were sort of multiple incidents in Nora
8 Roundtree's record of prior violence against a prior
9 partner, and that would be a concern, too, that this is not
10 just in one instance, but it's a serial set of instances
11 across relationships. So I would be concerned in that
12 case.

13 Q. And how about in the context of Ms. Aden and her
14 daughter?

15 A. Yes, and Ms. Aden and her daughter, you know, there are
16 several incidents that are documented in the record: April
17 of 2012, July of 2011, February of 2011, and the end of
18 2010, so going back to 2010 first. And it's really
19 interesting that the, when she tells him that she wants to
20 leave, that's one of the most severe violent events.

21 He slaps her several times in the face, smashes
22 and destroys things in the house, other belongings, cell
23 phone, laptop and the like. Then moving up to February,
24 there was another incident, and this is a particular
25 concern for me that she was already pregnant at this time,

1 when she is telling him she wants to leave, and he strikes
2 her in the stomach with his knee, and of course this is
3 alleged by Amal, and pushes her onto the bed and holds her
4 down and hits her in the head.

5 Another one in July of 2011 and then another one
6 in April of 2012, and one of -- in April of 2012, he
7 actually picks up, picked up the infant, and at least by
8 Amal's allegation, throws her across the room and then beat
9 Amal in the presence of the child, kicked and punched her
10 from Amal's testimony.

11 And so I, you know, I would be very concerned.
12 This is sort of the center of my research for the last 20
13 years is focused on the co-occurrence of domestic violence
14 against adults and child abuse against children in the same
15 families, and what we find in over 20 years of research,
16 really 25 years of research, is there is a great
17 co-occurrence of physical abuse against multiple family
18 members, against mothers and children in the same families.

19 And so I would say that the record of abuse
20 against Ms. Aden and then the involvement of the daughter
21 at least on two of these instances, one in the kicking of
22 her stomach when she is in her first trimester and then
23 grabbing the child and throwing her across the room and
24 then beating a mother in front of the child, and I think
25 the mother, Ms. Aden, testifies in her documents that the

1 child was hysterical for a long period of time after that
2 event, that I would say that that is great concern that
3 this child would be exposed to future, grave risk of
4 future, both physical and even more importantly
5 psychological violence going forward in this case.

6 Q. Thank you. Go ahead.

7 A. Yeah. No. I think that's enough. If you want to ask
8 me anything, go ahead.

9 Q. I do. Dr. Edelson, I want to talk about the second
10 risk factor, that of the threat to kill.

11 A. Mm-hmm (Yes).

12 Q. Why are threats to kill important to consider?

13 A. Well, again, going back to Dr. Campbell's research,
14 threats to kill increase the likelihood by 2.6 times that
15 the mother or the woman would be killed, and so -- compared
16 to abused women who are not killed. So just threats to
17 kill is a key lethality factor in the research and the
18 concern that many clinicians and researchers would have if
19 that's present in a case.

20 And I guess I would put this in the context of
21 another factor that we may talk about, estrangement, but
22 the early research from Donald Dutton at the University of
23 British Columbia show that men who batter their partners
24 when presented with various vignettes that they, the ones
25 in which they escalated the most rapidly were ones in which

1 the women were saying they wanted to leave.

2 And logically and the interpretation of that
3 research is that when men are, when their current
4 controlling, coercive controlling behaviors aren't working
5 and the partner is pulling away and trying to leave that
6 they escalate their tactics, and that's where threats to
7 kill and other kinds of extreme violence happen.

8 In fact, over 55 percent of the women who are
9 killed by intimate partners each year based on FBI data
10 shows that those women are estranged from their partners,
11 not living with them at the time of their death. So I
12 think this wraps, you know, the threat to kill sort of
13 wraps around with the idea of estrangement that Ms. Aden is
14 moving away from Mr. Aly Saad Aly.

15 And as she emotionally and physically tries to
16 move away from him, he escalates his behavior, and that's
17 pretty classic and pretty common in the literature on
18 domestic violence and abuse. So I think his behavior does
19 show greater risk of harm to, potential harm to Ms. Aden,
20 as well as to the infant in this case.

21 Q. And so in the context of threat to kill as well as
22 estrangement, what are the specifics in this particular
23 case that trouble you?

24 A. Well, I mean, I think the specifics of all of this are
25 that they happen in an escalating -- from reading the

1 documentation in this case and from talking to Ms. Aden,
2 interviewing her and listening to the portions of testimony
3 that I've listened to, my concern is that there is evidence
4 of escalating violence in this relationship, that Ms. Aden
5 pulls away because of that violence, and then Mr. Aly Saad
6 Aly escalates his violence, which is a classic --

7 Unfortunately, it represents a very common
8 experience as greater danger is introduced and more risky
9 behaviors are committed by the perpetrator of violence, and
10 it does raise some lethality concerns for me of Ms. Aden's
11 safety and that of her child.

12 Q. So, Dr. Edelson, estrangement, generally speaking, is a
13 strong predictor of future violence. Is that what you're
14 saying?

15 A. Yes. Absolutely, yes. In Jackie Campbell's research,
16 I believe that it increased the likelihood of femicide, of
17 homicide against the woman, by three-point -- more than
18 three times, and also going back to Donald Dutton's early
19 research in this area that estrangement was probably the --
20 when a woman moved away from the abusive partner, that was
21 the situation in which the partners escalated their
22 violence most rapidly and were most likely to use violence
23 against their partner again in the future.

24 So that estrangement, both on the lethality side
25 as well as on what we know about what escalates men who

1 batter, in research for me is represented in this case by
2 both. As Ms. Aden says she wants to leave is when the
3 violence starts to escalate, and the threats tend to
4 escalate after that point as well in this relationship.

5 So I think estrangement is a strong predictor of
6 future violence, as well as potential homicide, and I do
7 think in this case it is evident here that Mr. Aly Saad Aly
8 is escalating his violence as she makes efforts to protect
9 herself and her child and leave the relationship.

10 Q. And, Dr. Edelson, is estrangement also a strong
11 predictor of future psychological harm?

12 A. Well, certainly Mr. Aly Saad Aly may be trying to
13 continue using other coercive behaviors in addition to the
14 threat to kill that we have there, but I would be concerned
15 that not only for Ms. Aden, but for the infant, that should
16 they be returned -- should the infant be returned to Canada
17 and if Ms. Aden followed the child, I would be concerned
18 that there would not only be future risk of exposure to
19 Ms. Aden of physical violence and also the child, but also
20 that the child may be exposed to the violence against the
21 mother and threats against the mother and that that would
22 represent a risk of psychological harm to the infant in the
23 future.

24 Q. Now, finally, I would like to discuss coercive control
25 that you mentioned earlier.

1 A. Yes.

2 Q. Based on the materials that you've reviewed and what
3 you have heard in court in this particular case, how would
4 you characterize petitioner's relationship with Ms. Aden?

5 A. Well, coercive control is a term that's been defined
6 probably in the last seven or eight years in the
7 literature. Both Mary Ann Dutton from Georgetown
8 University and Evan Stark, who wrote a classic book on that
9 about five years ago from Rutgers University, the two of
10 them have worked to redefine and -- redefine domestic
11 violence as a violence that occurs in a context and a
12 pattern of ongoing coercion by one partner towards the
13 other.

14 And in fact, this has gained wide acceptance to
15 the point that the United Kingdom has accepted it as a
16 definition in their child welfare system and applied it
17 broadly across the country and in the UK, and it's being
18 applied more broadly in the U. S. now as well.

19 But the idea that there are a variety of
20 instances in this case record where Mr. Aly Saad Aly is
21 manipulating and controlling her access to others,
22 isolating Ms. Aden from family and friends, interrupting
23 her relationships with them, withholding on several
24 occasion travel documents, which if you look in the
25 National Institute of Justice report on Hague Convention

1 cases that we, the study that we did, that many of the men
2 in fact did do that as a way of controlling their partner's
3 movement.

4 You know, all of this happens within a context of
5 him monitoring her on a regular basis. So when she is at a
6 friend's house, I think there is someplace in there in the
7 record that he repeatedly called her, asked her to leave,
8 come back, just when she was on a visit to a friend's
9 house.

10 There is also allegations in the record that he
11 hacked into her e-mail, her social media, other Internet
12 accounts, posed as her, and tried to undermine her ability
13 to gain employment in one case, and also erased her e-mail
14 so that she would not be able to access them and connect
15 with other people that had written to her.

16 So I do think that there is a lot of record here
17 about coercive control and that the violence and threats to
18 kill happen within the context of a larger set of behaviors
19 that together make me very concerned, not just for
20 Ms. Aden, but for the child's psychological well-being.

21 And that's where I come to a conclusion that this
22 infant is at grave risk of not only psychological harm in
23 the future, but because of the co-occurrence of violence in
24 families and the allegations that Mr. Aly Saad Aly on two
25 occasions tried to harm the child, once when the child was

1 in -- was a fetus and once again threw the child across the
2 room in one of the incidents in Canada, that I would be
3 very concerned for and believe that there is a grave risk
4 to the infant if returned to Canada.

5 Even if returned and in Ms. Aden's custody, I
6 would be concerned about Mr. Aly Saad Aly's ability to
7 perpetrate violence against both the mother and the child.

8 Q. Dr. Edelson, in reviewing the materials, are you aware
9 of any allegations regarding female genital mutilation in
10 this particular case?

11 A. I believe there are. I'm not an expert in that area,
12 so I did not focus on those.

13 Q. If those allegations are true, how would that factor
14 into your analysis of grave risk?

15 A. Well, again --

16 MS. BERG: Objection, Your Honor.

17 THE COURT: Just a moment. Mr. Edelson, just a
18 moment.

19 Go ahead.

20 MS. BERG: He has already testified he doesn't
21 have expertise in this area. They have already produced
22 their own witness on this topic, so this is just piling on.
23 It's irrelevant.

24 THE COURT: What is the basis for asking him this
25 question, Ms. Yang?

1 MS. YANG: I'm just curious as to Dr. Edelson's
2 opinion as to how allegations of female genital cutting
3 would factor into his analysis of grave risk.

4 THE COURT: Well, you better establish some
5 foundation that he has, he has some expertise in the
6 matter.

7 MS. YANG: I think he has already commented that
8 he is not an expert on female genital cutting.

9 THE COURT: Okay. Then let's go on to another
10 question.

11 THE WITNESS: Yeah. I would prefer not to
12 testify on that since I am not an expert on that.

13 MS. YANG: That's fine.

14 Thank you, Dr. Edelson.

15 THE WITNESS: Thank you.

16 THE COURT: Cross-examination?

17 MS. BERG: Thank you, Your Honor.

18 THE WITNESS: Nancy, can you hear me okay?

19 MS. BERG: Yes, I can.
20

21 **CROSS-EXAMINATION**

22 BY MS. BERG:

23 Q. Good morning. How are you?

24 A. Good morning. Good.

25 Q. Good. You interviewed Ms. Aden over the phone, is that

1 correct?

2 A. I did.

3 Q. And in your experience, do in-person interviews permit
4 you greater ability to assess credibility than telephone
5 interviews?

6 A. It would be nice to have nonverbal cues, and, you know,
7 that's one of the hard parts for me also testifying by
8 phone here and listening to so many phone testimonies in
9 this case. I think it is harder to read the nonverbal
10 cues, but I did find Ms. Aden credible in the information
11 she gave me, and it was consistent with other information
12 in the case.

13 Q. Did Ms. Aden tell you that she had two separate bank
14 accounts which were not joint with Mr. Aly Saad Aly?

15 A. I have no knowledge of her finances.

16 Q. Well, you testified that Mr. Aly Saad Aly was exerting
17 coercive control through financial means.

18 A. Yes.

19 Q. So is that not correct?

20 A. No. That's -- he was exerting control by withholding
21 her travel documents.

22 Q. Well, I'm not talking about --

23 A. Can you point to that in my testimony?

24 Q. I'm looking at -- I'm sorry. I'm confused now.

25 Are you talking about travel documents or

1 financial control?

2 A. You were asking about financial control, and I
3 testified that he is withholding, that he was withholding
4 her travel documents.

5 Q. I believe --

6 A. Do you want to point me to that in my testimony?

7 Q. No. I will point you to it in your expert report.

8 A. Yeah. That's what I mean.

9 Q. Page 41 through 43.

10 A. There are a lot of documents in this case.

11 Q. Yeah, there are.

12 A. Oh, yes. You're right. She did talk to me about,
13 about her earnings and that he was, he was -- she was
14 working -- she had a very tough work schedule, actually. I
15 do remember that and --

16 Q. Mr. Edelson --

17 A. And he was asking her, he took control of the earnings
18 from her nursing job.

19 Q. Well, Mr. Edelson, that's simply not believable since
20 she was working in New York, had a New York bank account,
21 non joint --

22 A. New York was just across the border from --

23 THE COURT: Just a moment. Just a moment. We've
24 got -- we can't talk over each other.

25 THE WITNESS: All right.

1 THE COURT: So let's wait until the question is
2 done.

3 THE WITNESS: Okay, Judge.

4 THE COURT: And the questioner should wait until
5 the person on the phone is done. Okay?

6 Now go ahead with a new question.

7 BY MS. BERG:

8 Q. Mr. Edelson, Mr. Aly does not have the ability to
9 travel to the United States. It was a non joint account
10 where her paycheck was deposited in her name alone. So did
11 Ms. --

12 A. Are you asking me --

13 Q. Did Ms. Aden lie to you?

14 A. No, she didn't. I don't believe she did. What I
15 understood is that the hospital is just across the border
16 and that she was commuting to that from their joint
17 residence. Is that incorrect?

18 Q. I don't understand what that has to do with whether or
19 not she had her own independent funds.

20 A. My understanding is that she was working at the
21 hospital in New York while living in Canada in their joint
22 residence.

23 Q. Correct.

24 A. Yes, and that he took control of those finances. It
25 may have been an American account. It may have been a

1 Canadian account or she may have transferred funds. I
2 don't know the records of the bank account. It is quite
3 common that people take control of accounts or even
4 coercively pressure their partners to make transfers from
5 one account, from their paycheck to a joint account or a
6 solely owned account by the husband.

7 Q. So if we have no evidence of that sort of conduct, then
8 that would be a lie, is that correct?

9 A. No, it wouldn't be a lie. It just would mean that you
10 don't have any evidence of whether that occurred or not.

11 Q. So regardless of what evidence is produced that Mr. Aly
12 Saad Aly did not have access to these funds, you wouldn't
13 believe it, is that correct?

14 A. I -- what I heard was the, in the interview with
15 Ms. Aden that he had taken control of her paychecks --

16 Q. Did she --

17 A. -- from that hospital work.

18 Q. Did she tell you that she used her funds to send money
19 to her family?

20 A. No, she didn't, but that is quite common among migrant
21 workers, immigrant workers.

22 Q. Were you aware that she had a Minnesota checking
23 account in which the funds from the rental of her town home
24 were deposited and that Mr. Aly Saad Aly had no access to
25 that account?

1 A. No. I was aware that she had a town home in Minnesota
2 and that it was rented, but I had no knowledge of where
3 those funds went.

4 Q. Interestingly, we compared your report in this case
5 with the case we had last spring, the Acosta matter.

6 A. Mm-hmm (Yes).

7 Q. And I'm wondering if you can explain why the language
8 concerning economic control is identical in both of your
9 reports. Did you just cut and paste?

10 A. The economic control?

11 Q. Yes.

12 A. Well, I'm basing it on the scholarly research in that
13 area, and so I am, yeah, I'm probably rewriting and using
14 some of the text. You know, I don't get the point.

15 Q. Okay. Now --

16 A. I --

17 Q. There is no question before you. Were you aware that
18 the OFP, the order for protection, that Ms. Aden obtained
19 in Minneapolis -- or I'm sorry -- in Anoka was obtained
20 only after she learned that Mr. Aly Saad Aly was pursuing
21 the return of his daughter?

22 A. I don't know the sequence of him filing the Hague
23 petition.

24 Q. Are you aware that he was never served with the OFP,
25 and therefore it was obtained ex parte without contest?

1 A. I did see the record of that, that they could not serve
2 it on him in Canada.

3 Q. Would you agree with me that a --

4 A. They tried multiple times.

5 Q. Would you agree with me that an OFP obtained solely
6 based on an ex parte affidavit has not been tested for
7 credibility?

8 A. No. I believe the Court issues those based on their
9 understanding of the case and their understanding of the
10 credibility of the person who is filing the OFP.

11 Q. And are you aware that the order for protection
12 obtained by Ms. Roundtree over ten years ago was also never
13 served on Mr. Aly Saad Aly?

14 A. I don't know that there was a record of whether that
15 was attempted to be served or not or received. I do
16 believe, though, that two different courts in two different
17 states were concerned about the safety of the women in
18 those cases and the children and did issue a protection
19 order out of that concern, so --

20 Q. And in both cases Mr. Aly Saad Aly was not served, had
21 never appeared in the proceedings and had not had an
22 opportunity to contest the issuance of the order, is that
23 correct?

24 A. I believe that he -- there were attempts, multiple
25 attempts to serve him. Should he not have received that, I

1 don't know.

2 Q. Now, are you aware that Ms. Aden received advice and
3 counseling from the Ontario Domestic Abuse Services when
4 she -- after the February 2011 incident?

5 A. I'm not aware of it, but I would hope she did.

6 Q. Well, it was attached to her verified -- her answer.

7 A. Yeah. I didn't see that.

8 Q. You didn't see that?

9 A. I'm glad she did. I'm glad she did.

10 Q. Now, and then two months later, they married?

11 A. Mm-hmm. Yeah.

12 Q. And that incident in which she went to the domestic
13 abuse unit in Ontario was the one where there was a police
14 report which if you read it clearly indicated the police
15 felt there was no domestic violence and that neither party
16 was believable.

17 Did you read that report from February 27?

18 A. Can you point out -- can you point -- which one is
19 that?

20 Q. The February 27, 2011.

21 A. Which exhibit is that?

22 Q. It's Exhibit 75.

23 A. Can you point to the exhibit for me?

24 Q. Yes. It's exhibit --

25 A. I have four volumes here of exhibits so --

1 Q. Exhibit 75 of respondent.

2 A. Okay. Hold on one second while I get that volume. I
3 have Exhibit 75 is Mr. Mohamed Aly. This is court
4 document. Kimberly Nunez? Do you want to point to the
5 page that you're speaking about? This is the Waterloo
6 Regional Police.

7 Is that the one you're referring to.

8 Q. Please don't talk until there is a question because
9 then we are talking over each other.

10 A. Okay.

11 Q. On the lower right-hand corner, it would be Aden 00110.

12 A. No. I have Aden 00 -- oh, okay. Looking back. Okay.
13 Almost there.

14 Q. I'm sorry. It's 108.

15 A. Two pages back?

16 Q. Aden 00108 of Exhibit 75.

17 A. Yes.

18 Q. Do you have it?

19 A. Yeah.

20 Q. Take a moment to read that page and the following page
21 109. Let us know when you have completed your review.

22 A. Mm-hmm. Go ahead. I've read this, but I have read a
23 lot of documents. I'm ready. I'm waiting for you to ask a
24 question.

25 Q. All right. Now, it's pretty clear the police felt

1 neither one of the parties was credible regarding whatever
2 happened in this incident, is that right?

3 A. No, I don't believe that. The police factually report
4 what they receive from both Mohamed and Amal in this case,
5 and Amal called from St. Mary's Hospital later.

6 Q. And the police in their credibility assessment report
7 at the top of page 109, Amal had no visible signs of injury
8 and neither did Mohamed.

9 A. That is true.

10 Q. Right?

11 A. That is true.

12 Q. And --

13 A. Two paragraphs down, yep.

14 Q. And --

15 A. Sorry.

16 Q. And Captain Reitzel --

17 A. Mm-hmm (Yes).

18 Q. -- reports that she says her fingers are broken. Yet
19 he observes her packing her suitcase, is that right?

20 A. Well, this is 18:00 hours, so it was later that I
21 believe it was reported, and she went to the hospital to
22 get x-rays.

23 Q. Yeah.

24 A. That's how I understood the statement.

25 Q. Okay. So -- and she received information from the

1 Domestic Violence Center in Ontario. Yet, she never filed
2 an order for protection. No charges were filed by the
3 police.

4 A. Where do you see the Ontario? I don't see that in this
5 report, the domestic violence services in Ontario. This is
6 St. Mary's Hospital. It doesn't say domestic violence
7 services.

8 Are you referring to a different document?

9 Q. No. Look at the bottom of 109.

10 A. Mm-hmm (Yes).

11 Q. Family and Children Services was not notified. Amal
12 was provided with the Breaking the Cycle of Domestic
13 Violence?

14 A. So you're saying a pamphlet with services was domestic
15 violence services?

16 Q. Yes.

17 A. Oh. Well, I didn't understand what you were -- I would
18 not refer to that as domestic violence services. Those are
19 pamphlets that are commonly available, both in hospitals
20 and family and children service agencies. I wouldn't call
21 that domestic violence services, but she was provided with
22 that pamphlet, yes.

23 Hopefully, she learned from it and took
24 protective actions for herself and her daughter.

25 Q. But she didn't.

1 A. Well --

2 Q. There is no evidence she ever sought an OFP in Canada.
3 There is no evidence that criminal charges were ever filed
4 against Aly Saad Aly in Canada for any act of domestic
5 violence, isn't that true?

6 A. I would look at this very differently.

7 Q. I'm asking if you are aware --

8 A. Could you repeat your question?

9 Q. Were any criminal charges ever filed against Mohamed
10 Aly Saad Aly in Canada?

11 A. No. And that is true of most domestic assault
12 abusers --

13 Q. You know, Mr. Edelson --

14 A. -- in the United States and in Canada.

15 Q. -- it will go much faster if you just answer the
16 question and not offer your editorial comment.

17 A. Okay. I'm just putting it in context of the larger
18 context.

19 Q. Is it also true that Ms. Aden never sought an order for
20 protection in Canada?

21 A. That is true, although she did seek police help and
22 hospital help, clearly.

23 Q. Well, the only time she sought police help from the
24 evidence that we've seen is on February 27th, and she
25 didn't seek the police help. Mr. Aly Saad Aly is the one

1 that sought the police help, is that not correct?

2 A. I believe there are a number of police incidents.

3 Let's go back.

4 Q. Let's take a moment. You identified for me a police
5 incident report in Ms. Aly Saad -- I'm sorry -- Ms. Aden
6 reported she had been assaulted by Mr. Aly Saad Aly.

7 A. Well, she has reported she has been assaulted, and she
8 did go to the hospital following that police intervention
9 on page Aden 00109.

10 Q. Right. You told me --

11 A. Yeah.

12 Q. -- there were other instances when you believe she had
13 contacted the police because of acts of domestic violence.

14 A. No. She had contact with police, yes.

15 Q. Okay.

16 A. I'm sorry if you misheard that. I'm sorry if you
17 misheard that.

18 Q. Now, Ms. Aden is a registered nurse, is she not?

19 A. I believe so.

20 Q. And are registered nurses mandated reporters of
21 violence in the family?

22 A. I don't know the Canadian laws on that.

23 Q. Well, she is a registered --

24 A. They are not, they are not -- no one in the United
25 States is a mandated reporter of adult domestic violence

1 except if you're in the U. S. military, then it is mandated
2 and the state of Kentucky. Otherwise, no one in the United
3 States is a mandated reporter of adult-to-adult domestic
4 violence.

5 Q. Are nurses trained in domestic violence?

6 A. Some are. Some are not. In fact, that's been my
7 life's work is to try to get professionals trained about
8 domestic violence.

9 Q. Are you aware that Ms. Amal on at least two occasions
10 traveled without Mr. Aly Saad Aly's knowledge?

11 A. I am aware of the time that she left Canada and came to
12 the U. S. without his knowledge. I don't know about the
13 other --

14 Q. If she traveled to Toronto without his knowledge and
15 traveled back to Minnesota without his knowledge,
16 independently purchasing the tickets and somehow securing
17 her travel documents, would that affect your opinion at
18 all?

19 A. Yes. I would say that she is resourceful and
20 protecting herself and her child and that that is
21 consistent with my research for the National Institute of
22 Justice that women do take a period of time to decide how
23 they can protect themselves from --

24 Q. Is it consistent with the stories that she told you
25 that you reported in your report, that she was isolated,

1 did not have access to her travel documents?

2 A. Yes, but then she did travel. He removed her travel
3 documents at times, not always withholding them.

4 Q. How did she get into the U. S. to go to work?

5 A. She must have had a travel document for those days.
6 Her daughter was left in Canada.

7 Q. You know, having read several of your reports now,
8 Mr. Edelson, would you tell me what steps you take to
9 determine the veracity of the information you're given?

10 A. Mm-hmm. Well, I, you know, I interview usually the
11 respondent in these cases. I try to listen as much as I
12 can to the testimony. Unfortunately, this time because of
13 that time difference, it was hard for me to listen to all
14 the testimony.

15 And then I base it on the documentation that I'm
16 given, and I have five volumes of documentation here that
17 I've looked through at various times over the last month
18 and then put together my report, and that's based on my
19 writings.

20 Q. Do you have any concern at all for the fact that the
21 dramatic details recounted in Ms. Aden's description of the
22 February 27th incident were never given to the police?

23 A. No. Most domestic violence incidents are never
24 reported to the police. The great majority are never
25 reported. In fact, you know, usually it's just, you get

1 the tip of the iceberg, and there are many tips of icebergs
2 here.

3 Q. Is it at all possible that Mr. Aly Saad Aly is the one
4 telling the truth and that Ms. Aden is lying?

5 A. That's always a possibility. I, in this case, I don't
6 believe so based on the record of, that's present here.

7 Q. Okay. Now the record that is present here is, no
8 police report where there has been domestic violence
9 observed by the police or found to be credible and no
10 documentation to support the claim of financial control and
11 two OFP's ten years ago apart, two different marriages for
12 a man who has been married five times --

13 A. Mm-hmm (Yes).

14 Q. -- in which there has never been a judicial finding of
15 domestic abuse beyond the ex parte order being issued, and
16 all of this only comes to a head after she abducts the
17 child illegally from the child's place of habitual
18 residence?

19 MS. YANG: Objection. Counsel is testifying.

20 THE COURT: Well, I think, I think she is asking
21 a question. Go ahead.

22 BY MS. BERG:

23 Q. Go ahead, Mr. Edelson.

24 A. Yes. Well, so I would disagree with your
25 characterization of the record here. There is testimony by

1 Ms. Aden of increasing violence while she lived in Canada.
2 There are not police records of that, but there are seldom
3 police records of domestic violence incidents. In fact,
4 only about 3 percent end up being documented by the police.

5 I -- there is increasing violence. There is a
6 record of serial restraining orders. They may be ten years
7 apart, but there are multiple against two different women
8 or restraining orders on behalf of two different women in
9 two different jurisdictions.

10 So I do think I would characterize it very
11 differently than you have. It is true that there is not a
12 lot of record, and unfortunately, most battered women do
13 not create those records. They're not thinking about a
14 court case down the road. They're thinking about their
15 safety and the safety of their child.

16 And so they take actions, most of those not
17 documented by official sources.

18 Q. Do you endorse the notion that the only way to prevent
19 child abuse is international child abduction?

20 A. No, not at all. In fact, I'm a strong supporter of the
21 Hague Convention and the need for protocols between
22 countries for observing these. I do think, though, the
23 Hague Convention is written with exceptions to the return,
24 and in this case, I think there is a grave risk of
25 psychological and physical harm to the child upon return.

1 And the drafters of the Hague Convention in 1980
2 took that into account even before there was any really
3 research on domestic violence. They were concerned about
4 those issues and built those exceptions into the Hague
5 Convention so that judges would have latitude to make a
6 decision based on the safety of the child.

7 Q. And is it your opinion that the United States is better
8 able to ensure the safety of this -- of Ms. Aden and the
9 child than Canada?

10 A. It is my opinion that Ms. Aden has family support and
11 resources as well as a residence and a job in Minnesota and
12 can be better established and provide for her child in
13 Minnesota than in Canada. I'm not sure what her legal
14 status would be upon return to Canada and whether she could
15 even work.

16 Q. Well, let's say the child is returned to Canada, and
17 she can live in Buffalo and do what she did before,
18 couldn't she?

19 A. I'm not sure if she can still travel back and forth
20 across the border easily. I don't know. I haven't gone
21 through the border at Buffalo. I haven't gone through the
22 Canadian border recently at all.

23 Q. Have you looked into the research at all about the
24 effect on children of being separated from a parent?

25 A. Yes, and in fact I've looked into the research on the

1 impact of child abduction, and we have an entire section in
2 the new book that is coming out this month from
3 Northeastern University Press on that research.

4 Did you have a question related to that?

5 Q. Sure. What -- is there, is it a benefit to this child
6 to be separated from her father?

7 A. I think the research on that is conditional. It
8 depends on the quality of the relationship of the
9 caregiving parent, the primary caregiver to the child.

10 Did you want me to answer?

11 Q. Yeah. Go ahead.

12 A. The research is conditional based on the degree to
13 which it interrupts the primary attachment figure for the
14 child, which is the primary caregiving parent, as well as
15 the relationship between the other parent and that primary
16 caregiver.

17 If it's a disrupted relationship and conflictual,
18 actually the research shows that it's better for the child
19 not to have contact. If it's a relationship in which the
20 child can see conflict resolved, resolved amicably even if
21 it's a divorced relationship, children can do well and
22 benefit from that contact.

23 So it's really conditional on the quality of the
24 relationship of the child to each parent and the quality of
25 the relationship between the parents. In this case, I

1 would say it's a high conflict and violent interaction
2 between the two -- by one parent towards the other, and I
3 would say it's probably not very beneficial to this infant
4 at this moment to have a lot of contact.

5 Q. If I tell you there is evidence in the record that
6 Ms. Aden has identified Mohamed Aly Saad Aly as the primary
7 caregiver of the child, would that affect your opinion at
8 all?

9 A. Well, I would want to know about the quality of the
10 caregiving based on the allegations of his behavior towards
11 the child in these high conflict and violent incidents. I
12 would be quite concerned about his parenting behaviors, and
13 that's an area of research that I've started to work on a
14 lot right now is new and expectant fathers and their
15 relationships with their infant child.

16 MS. BERG: I have nothing further.

17 THE COURT: Any further questions?

18 MS. YANG: Very briefly.

19 THE COURT: Go ahead.

20

21 **REDIRECT EXAMINATION**

22 BY MS. YANG:

23 Q. Dr. Edelson, would it be surprising to you if Ms. Aden
24 were to withdraw cash from her checking account for her
25 husband because she felt pressured to do so?

1 A. No. It would fit within the context of coercive
2 control that I outlined in my testimony and that I've
3 talked about today.

4 Q. Is it common for women to withdraw cash for husbands
5 because they feel such pressure in abusive relationships?

6 A. It is quite common for abusive partners to take control
7 of finances, whether -- I don't know about the particulars
8 of withdrawing cash.

9 Q. Dr. Edelson, as for the medical reports that Ms. Berg
10 alluded to, are you aware of any medical reports that
11 document injuries from February 2011?

12 A. I was trying to think about that, and I don't recall
13 reading those. Is there an exhibit that has those records?

14 Q. There is. One second.

15 MS. BERG: Your Honor, we object. If the witness
16 has testified he doesn't recall, that's -- I don't think
17 it's necessary for us to sit here and wait while he
18 refreshes his recollection to testify about something that
19 he already testified about in his report that he allegedly
20 read and now has testified he doesn't recall seeing.

21 It goes to the weight of his report, his
22 testimony and this evidence.

23 THE COURT: Well, you can ask further questions
24 to establish foundation on this, Ms. Yang, if you wish.

25

1 BY MS. YANG:

2 Q. Dr. Edelson, were you provided with medical reports in
3 connection with the respondent's counter petition?

4 A. The respondent's counter petition? I believe there was
5 from a hospital.

6 Q. And I would direct your attention to Respondent's
7 Exhibit Number 23.

8 A. Okay. I have to get that volume. Hold on. Yes. This
9 is from St. Mary's from the same incident, and this is
10 during the time that she is pregnant.

11 Q. Now if you'll turn to page 3 of Respondent's
12 Exhibit 23.

13 A. Mm-hmm. Yep.

14 Q. Are you there?

15 A. Yes. In that she was referred to the hospital by the
16 police.

17 Q. Right. And in the middle of the page, there is a
18 presenting complaint of domestic assault. Do you see that?

19 A. Right. True.

20 Q. And then there is a triage assessment states --

21 A. That she is four months pregnant. Assaulted by husband
22 four months pregnant, thrown on the floor, which is
23 consistent with her testimony.

24 Q. And then there was shoulder pain that was reported?

25 A. Yes. Yes.

1 Q. And that there was soreness in the fingers reported?

2 A. Yes, and stated that this was the fourth or fifth
3 assault by Aly Saad Aly and that it does say that on
4 several pages back that fingers were swollen and painful.

5 Q. And where do you see that?

6 A. It's page 05, 005 at the top. It's a handwritten
7 entry. It says hand, third, fourth fingers swollen and
8 painful and that she has been assaulted fourth, fifth time
9 before.

10 Q. And then if you will turn to page 24 of Respondent's
11 Exhibit 23.

12 A. 23? What page?

13 Q. Actually. I'm sorry. One second. Page 21.

14 A. Okay. Yes. So these are the diagrams by the medical.

15 Q. And you see that there is a diagram of some hands and
16 fingers --

17 A. Yes.

18 Q. -- and marks that --

19 A. Third and fourth fingers as I documented earlier and a
20 bruise on the arms on both sides -- on both arms -- wrists.

21 THE COURT: Excuse me --

22 THE WITNESS: On the next page there are marks on
23 the arm, upper arm on this document.

24 THE COURT: Okay. Just, my screen isn't working.

25 Where is this exhibit, in which book?

1 MS. YANG: This is Respondent's Exhibit
2 Number 23.

3 THE COURT: What book is it in? I can't find it
4 in any of the books you've given to me.

5 Thank you.

6 MS. YANG: So it's page 21 of Respondent's
7 Exhibit 23.

8 THE COURT: Okay. Go ahead.

9 BY MS. YANG:

10 Q. Now, finally, Mr. Edelson, was there anything in the
11 record that made you question the credibility of petitioner
12 himself?

13 A. Well, what I listened to yesterday was his testimony
14 about three police calls on one day and the changing
15 tapestry of that, his allegations on that day, which made
16 me question his credibility.

17 MS. YANG: I think that's all I have for you.
18 Thank you, Dr. Edelson.

19 THE COURT: Is there any additional --

20 THE WITNESS: Am I finished?

21 THE COURT: Is there any additional examination,
22 Ms. Berg?

23 MS. BERG: No.

24 THE COURT: Okay. You're done, Mr. Edelson.

25 Thank you.

1 MR. EDELSON: Thank you, Your Honor. Bye.

2 THE COURT: Okay.

3 **(Witness excused.)**

4 THE COURT: Okay. Who is our next witness?

5 MR. CARTER: Excuse me, Your Honor. I believe we
6 have Asha Aden, who has called in on the line.

7 Asha, are you there?

8 MS. ASHA ADEN (Via telephone): Yes, I am.

9 MR. CARTER: So respondent would call Asha Aden
10 as a witness.

11 THE COURT: Ms. Berg, that's okay with you?

12 MS. BERG: Yes.

13 THE COURT: Okay. How long is this testimony?

14 MR. CARTER: Probably five minutes.

15 THE COURT: Okay. Go ahead.

16 **(Witness sworn.)**

17 THE COURT: You may proceed.

18

19 **ASHA ADEN (Via telephone),**

20 after having been first duly sworn, was examined and
21 testified as follows:

22 **DIRECT EXAMINATION**

23 BY MR. CARTER:

24 Q. Good afternoon, Ms. Aden. How are you?

25 A. Good.

1 Q. Could you state -- could you state your name for the
2 record, please.

3 A. My name is Asha Aden.

4 Q. And how old are you, Ms. Aden?

5 A. I'm 39.

6 Q. Are you related to Amal Aden, the respondent in this
7 case?

8 A. Yes.

9 Q. How so?

10 A. We are cousins.

11 Q. And where do you live, Ms. Aden?

12 A. I live in Kitchener.

13 Q. And what do you do there?

14 A. I work as a settling worker.

15 Q. Could you repeat what you do for a living, please?

16 A. I assist new immigrants settling to the community.

17 Q. Okay, Ms. Aden. I want to turn your attention to
18 February 27th, 2011. Do you remember that day?

19 A. Yes, I do.

20 Q. Did you get a call from Mr. Aly Saad Aly on that day?

21 A. Yes, I did.

22 Q. And what did he say?

23 A. He said come get your crazy cousin from my home or I
24 will call the police and have her arrested like Fowzia.

25 Q. What -- how did you understand that? What did he mean,

1 I'll have her arrested like Fowzia?

2 A. Fowzia is one of my acquaintance who was arrested for
3 domestic violence for assaulting her husband.

4 Q. And did he mention a knife at all when he called you?

5 A. No, he did not.

6 Q. Did he say anything about what Ms. Aden was doing?

7 A. He said she was screaming, and she was going from
8 window to window.

9 Q. And so what did you do?

10 A. I told him, because I was working as a volunteer doing
11 some other stuff, and I said I cannot deal with that issue
12 right now, but as soon as I'm done whatever I'm doing, I
13 will come and get her from your home.

14 Q. And did you do that?

15 A. Yes, I did. I went an hour or an hour and a half later
16 approximately to their home.

17 Q. And what happened when you got there?

18 A. When I got there, there was a police officer, two
19 police officers, male and female, at the home and talking
20 to them.

21 Q. And did you happen to hear any of the conversation
22 between the police officers and Mr. Aly?

23 A. Not really. I didn't.

24 Q. You didn't hear anything about this Fowzia?

25 A. At one point after and the police told me you can take

1 Fowz -- I mean Amal with you, and Fowzia tried to help us
2 carry the luggage downstairs, and Mr. Aly told her you
3 cannot leave the home because Mr. Aly felt Fowzia -- and
4 was staying with them at that time --

5 Q. Okay. Sorry to interrupt you, Ms. Aden. So you --

6 A. That's okay.

7 Q. So you testified that Fowzia was there staying with
8 Mr. Aly and Ms. Aden at the, on February 27th, correct?

9 A. Yes. That's correct.

10 Q. And what was Mr. Aly saying to the police about Fowzia?

11 A. She -- he said that she cannot leave from the home of
12 Mr. Aly. She cannot help Amal carrying the luggage, and
13 the police, the female police officer, asked him where does
14 she stay, and she asked him, the police officer stated that
15 there was nothing saying on this record that she is not
16 allowed to leave from the home. She can go and come in the
17 home as she wishes.

18 It only states that at night she has to reside
19 with you, but on a daily basis, she can do whatever she
20 wants.

21 Q. Okay. And this Fowzia, you testified that it's a
22 female, it's a woman. How did she --

23 A. How was what?

24 Q. Could you tell what her attitude toward Mr. Aly was?

25 A. She's very quiet. I can -- she wouldn't say a word.

1 She was a little bit afraid, so she didn't say. She said I
2 will do whatever you wish. She didn't want to really to
3 make him mad or do anything that he doesn't wish her to do.

4 Q. Okay. I would like to move on now. Did you see any
5 injuries on Ms. Aden?

6 A. One of her hands was swollen, fingers, the fingers.

7 Q. Okay. And then what happens? What happened next? Did
8 you leave the apartment?

9 A. When we left the apartment, we came downstairs. The
10 police officer approached us, and she give us a flier of
11 domestic violence shelters, and she tell, she told me to
12 take her to that, but Amal didn't want to go there.

13 Q. Did you go anywhere with her?

14 A. I took her to St. Mary's Hospital, the emergency room.

15 Q. Okay. And after you went to the hospital, where did
16 you go from there?

17 A. She saw the triage, and she saw one of the social
18 workers, but I was waiting for her outside. And after she
19 was done with the hospital, she came back with me to my
20 place.

21 Q. And she stayed with you for some time?

22 A. Yes, she did.

23 Q. Had she ever come to your, to your home and stayed with
24 you in the past?

25 A. During that time and before. At least within the time

1 she was living with Mr. Aly, a minimal of six, seven times
2 she came in and out of my home.

3 Q. Do you remember the first time you met Mr. Aly?

4 A. Yes, I do.

5 Q. What do you remember about that meeting?

6 A. That's before they got married. She came down to
7 Kitchener from Minnesota, and she said I want to introduce
8 you to someone that I want to marry, and he took us to a
9 restaurant, a Middle Eastern restaurant.

10 And after we ordered food and we were eating, and
11 Amal wouldn't be able to finish her food, and he was
12 telling her, you have to finish the food. You cannot leave
13 the food, in an intimidating voice it was used in, but at
14 the end he took the food with him.

15 Q. Could you describe some of the things you've heard
16 Mr. Aly say about women?

17 A. He used to kind of put them down, especially Somali
18 women. He would say they are always lying and calling her,
19 calling them names like sluts, needy, something like that.
20 He used to put it that way. Desperately looking for a man,
21 those things he used to say.

22 Q. Okay. Thank you. Just a couple more questions. Could
23 you describe what type of contact you had with Ms. Aden
24 before she went to Kitchener?

25 A. We had a good contact. We used to call each other and

1 see how she is doing and everything, but after she moved to
2 Kitchener and it -- I saw her behavior change. She was
3 excited actually to move to Kitchener. She said at least I
4 have you there, and we're going to see each other more
5 often, but after she got married to Mr. Aly, we wouldn't
6 see each other that much.

7 Our relationship become less and less, and I
8 didn't want to really interfere, and whenever she tries to
9 visit us at our home, she would get a phone call. Mr. Aly
10 would keep calling her, and she would leave right away.

11 Q. Could you describe that last part a little bit in more
12 detail? You said what would happen when she would come,
13 come to visit you?

14 A. She used to receive a phone call from her husband, and
15 she would leave right away. She wouldn't stay with us that
16 much.

17 Q. So would she receive multiple phone calls in one visit?

18 A. Yeah.

19 Q. And then she would feel obliged to leave?

20 A. Yeah.

21 MR. CARTER: Okay. Thank you, Ms. Aden. I don't
22 have any further questions.

23 THE COURT: Cross-examination, Ms. Kaiser?

24 MS. KAISER: Yes, Your Honor. Thank you.

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CROSS-EXAMINATION

BY MS. KAISER:

Q. Ms. Aden, my name is Lilo Kaiser. I'm an attorney for Mr. Aly Saad Aly, and I'm going to ask you just a few follow-up questions.

Okay?

A. Okay.

Q. Okay. You are her cousin, correct?

A. Yes.

Q. And you lived nearby her when she lived with her husband Mr. Aly Saad Aly?

A. Yes.

Q. How, how close were you? How far were your homes?

A. I'm not good with that, but one time they were living in Waterloo approximately 10, 15 minutes' drive, and then they moved to near my home, 5 minutes' drive from my home.

Q. So at the last residence that she was living in Canada, she was about five minutes from you?

A. Yes.

Q. And does she have any additional family members, or do you have any additional family members there in Canada?

A. Yes.

Q. Would you call the family that you have and that Ms. Aden has as supportive?

A. They -- she didn't know them that much, the other

1 family. They really hardly know each other. She was
2 raised -- we are related from her father's side, and she
3 was raised by her mother. So that family, they are
4 supportive to me because we know each other, but with her,
5 they don't really know each other. Some of them she never
6 even met them.

7 Q. Were you, are you aware that she provides support to
8 her mother and their family in Kenya?

9 A. Yes. When she was living in Minnesota, yes, she did.

10 Q. She gave her family money?

11 A. When she was living in Minnesota, from my knowledge,
12 that's what I knew, but from when she was living in
13 Kitchener, I think from what she said, she wasn't sending
14 them money.

15 Q. Were you aware that she has a town home in Minnesota?

16 A. Yes. I believe, yes, she told me that.

17 Q. And that she rents that town home?

18 A. Yeah, I believe she told me that.

19 Q. Did she tell you what she did with the rental money?

20 A. No.

21 Q. When she -- when you picked her up on February 27th,
22 did she tell you that her fingers were broken?

23 A. I don't recall. I don't remember. Her hands was
24 obviously was swollen.

25 MS. KAISER: I have no further questions, Your

1 Honor.

2 THE COURT: Anything further, Mr. Carter?

3 MR. CARTER: Nothing, Your Honor. Thank you.

4 THE COURT: All right. Thank you, Ms. Aden.

5 We're done with you.

6 THE WITNESS: Thank you. Bye bye.

7 THE COURT: All right.

8 **(Witness excused.)**

9 THE COURT: Okay. Who is the next witness?

10 MS. BRUCE: Your Honor, can you hear me? We have
11 Ms. Roundtree. She can call pretty much anytime between
12 twelve and one, so I don't know if you would like to go
13 ahead right away at noon or take a break and have her call
14 right away after.

15 THE COURT: Why don't we take a break here for
16 lunch, does that sound okay, and resume at 12:30. Is that
17 all right?

18 MS. BRUCE: That works fine. Thank you.

19 THE COURT: Ms. Berg, okay with you?

20 MS. BERG: Yeah, I'm looking at the schedule.

21 They have got Boyle at 1:30, and then we've got Abed Awad
22 at two, so I think that should work. What time are we
23 coming back?

24 THE COURT: 12:30? Does that work?

25 MS. BRUCE: Yeah. Ms. Boyle is only available at

1 1:30. She had to cancel her class, and then we did have
2 Ms. Mustafa sometime this morning, but she is here and can
3 go anytime.

4 THE COURT: Okay. So if we start at 12:30, we
5 have an hour in there before Ms. Boyle calls in. Do we
6 have enough for that hour?

7 MS. BERG: Looks like they have got three.

8 MR. CARTER: We have two.

9 MS. BRUCE: Two, Your Honor.

10 THE COURT: Mustafa and Roundtree.

11 MS. BRUCE: And they're probably shorter than a
12 full hour, but they will fit, certainly.

13 THE COURT: Well, we don't want to run out of
14 witnesses. Professor Boyle is only available at 1:30?

15 MS. BRUCE: That's correct.

16 THE COURT: Okay. How about the next witness,
17 the two o'clock call in?

18 MS. BERG: He is going to be driving at 1:30
19 because we asked him if he could listen to Boyle, so I
20 don't know. We've got, I mean, what about the respondent?
21 She is here.

22 THE COURT: She could start her testimony if we
23 have time in there.

24 MR. SWENSON: Your Honor, could we -- is Mr. Awad
25 not available before 1:30 because we would really like the

1 opportunity to present our respondent in full continuously
2 at the end.

3 THE COURT: I understand that, but we're trying
4 to figure out timing for everybody here.

5 MR. SWENSON: I understand, Your Honor.

6 MS. BERG: I can check. I know that his comment
7 was that when we asked him to listen to Boyle was that he
8 would be in the car driving. I don't know. He's a
9 full-time lawyer so --

10 THE COURT: Let's see if he is available at one.

11 MS. BERG: I'll e-mail him right now.

12 THE COURT: And if not, we can start with
13 Ms. Aden.

14 All right. Let's take a break, and we will start
15 again at 12:30.

16 THE CLERK: All rise.

17 **(Lunch recess taken.)**

18

19 **(In open court.)**

20 THE COURT: You may be seated. All right.

21 Who are we going with next?

22 MS. BRUCE: Nora Roundtree is on the line, Your
23 Honor.

24 THE COURT: Ms. Bruce, are you questioning her?

25 MS. BRUCE: I am.

1 THE COURT: Ms. Roundtree, are you there?

2 MS. ROUNDTREE: Yes, sir.

3 THE COURT: All right. We're going to take you
4 next as a witness. Okay?

5 MS. ROUNDTREE: Yes, sir.

6 THE COURT: And we're going to have you sworn
7 first, so just hang on just a minute.

8 **(Witness sworn.)**

9 THE COURT: All right. You may proceed,
10 Ms. Bruce.

11

12 **NORA ROUNDTREE (Via telephone),**
13 after having been first duly sworn, was examined and
14 testified as follows:

15 **DIRECT EXAMINATION**

16 BY MS. BRUCE:

17 Q. Good afternoon, Ms. Roundtree.

18 A. Good afternoon.

19 Q. Thank you for calling in on your lunch break.

20 A. That's okay.

21 Q. Ms. Roundtree, what state do you live in?

22 A. Louisiana.

23 Q. Do you know the petitioner in this matter, Mr. Aly Saad
24 Aly?

25 A. Yes, I do.

1 Q. How do you know him?

2 A. He's my ex-husband.

3 Q. When were you married, Ms. Roundtree?

4 A. Around in 2001, in the summer of 2001, I believe, in
5 July. I try and forget.

6 Q. That's fine. Are you still together?

7 A. No.

8 Q. Why did you separate?

9 A. Abuse and -- oral abuse and physical abuse.

10 Q. Can you tell the Court what you mean by that?

11 A. There were two occasions where I was held by the jaw
12 and told not to speak the minute that I spoke, and another
13 time it was like at three o'clock in the morning. I'm
14 tired. Because I didn't get up to tend to his needs and I
15 refused. I got sarcastic. He got equally sarcastic and
16 said what did you say, and he punched me in the head.

17 Q. Okay. Ms. Roundtree, the first thing you described was
18 an incident where Mr. Aly Saad Aly grabbed your jaw?

19 A. Correct.

20 Q. Can you tell the Court just a little bit more about how
21 that came to be?

22 A. He refused to eat on the table with everybody else. He
23 wanted to eat in the room. I got aggravated, and I asked
24 him why. He didn't answer and said that's what I feel like
25 doing. I slammed the door and walked out, and he came out

1 after me.

2 And at that point, I basically felt like I was a
3 slave in this marriage, and he grabbed my jaw basically and
4 told me don't you ever speak to me this way. Before he
5 did, I also said, do you think I'm your slave or something.
6 The way I said it in Arabic is very sarcastic.

7 So he grabbed my jaw quite hard. In fact my jaw
8 is not functioning correctly anymore, and my mom tried to
9 separate us, and she finally got to it and he went away,
10 but you know --

11 Q. All right. Ms. Roundtree, did you seek a protective
12 order or a temporary restraining order from the Court --

13 A. Yes.

14 Q. -- at any point?

15 A. Yes, I did. Yes, I did.

16 Q. And the documents that you have, did you recognize
17 those as your petition and the order for the --

18 A. Yes. I did in my handwriting.

19 Q. Okay.

20 A. Yes.

21 Q. And also child custody support order that you have
22 there?

23 A. Correct. Correct.

24 Q. And those are all the -- you recognize those as all the
25 documents related to your case regarding the order for

1 protection from Mr. Aly Saad Aly, correct?

2 A. Correct.

3 MS. BRUCE: Your Honor, I offer Exhibits 38, 39
4 and 40 into evidence, which are certified copies of these
5 documents.

6 MS. BERG: Same objections as to relevancy and
7 character.

8 THE COURT: I think we had 38 and 39 already
9 admitted, but we'll admit 40 as well.

10 MS. BRUCE: Thank you, Your Honor.

11 BY MS. BRUCE:

12 Q. Ms. Roundtree, could you please turn to page 3 of
13 Exhibit 30 -- 40? Excuse me. So on the bottom there you
14 will see it says RTX 40 and then 003, and in fact actually
15 004?

16 A. You said RTX what now?

17 Q. 040-004. This is the petition that you filed, the
18 third page of your petition.

19 A. Actually, I didn't print it.

20 Q. That's fine. Have you looked at it?

21 A. Go ahead. Yes.

22 Q. And I'm just, on the third page there is some
23 handwriting involving some descriptions of abuse. Is that
24 consistent with the incidents that you just described to
25 me?

1 A. Yes.

2 Q. Do you know if this temporary restraining order was
3 ever served on Mr. Aly Saad Aly?

4 A. It was not.

5 Q. Do you know why not?

6 A. Well, he was escaping, I mean. That was the last known
7 address I knew because those were the people that
8 introduced me to him, and that's who I thought he would run
9 back to.

10 Q. Okay.

11 A. I was told by several people that they could be facing
12 the sheriff, but because the sheriff doesn't carry a
13 picture, he could say, no, he doesn't live here, and the
14 restraining order would not be reserved.

15 Q. Okay, Ms. Roundtree. I'm going to switch subjects
16 really quickly. Do you and Mr. Aly Saad Aly have children
17 together?

18 A. Yes, I have one child, one daughter.

19 Q. And how do you know he was the father, or excuse me, is
20 the father of this daughter?

21 A. I was a virgin before I got married, and after I got
22 married, I conceived.

23 Q. I'm sorry. Did you just say a couple weeks after you
24 got married?

25 A. Yes.

1 Q. Okay. Was Mr. Aly Saad Aly ever ordered to pay child
2 support for your daughter?

3 A. Yes, he was.

4 Q. And is this reflected in the document that you've seen
5 that says child support should be paid?

6 A. Yes.

7 Q. Okay. And has Mr. Aly Saad Aly been involved in your
8 child's life?

9 A. She has never met him.

10 Q. Why is that?

11 A. Because I decided to finish the marriage before my
12 daughter was born.

13 Q. And why is that?

14 A. Because there was too much of -- I felt personally that
15 this would escalate. We were about to move into our own
16 apartment, and there was just too much oral abuse and his,
17 his morals and the way he just did not agree with normalcy.
18 I mean, he always said I don't know my religion very well,
19 and he thought he knew Islam very well and how to treat a
20 woman.

21 But unfortunately I have Egyptian -- I have an
22 Egyptian family on my mother's side that I have lived with
23 for ten years of my life, and none of my uncles have been
24 treated or treated any woman in the manner that this man
25 has treated me.

1 Q. Ms. Roundtree, did you give your daughter a special
2 last name?

3 A. I gave her my father's, my family's last name.

4 Q. Why did you do that?

5 A. Because he believes in the mutilation of the sexual
6 organs of a female and because after -- I gave him time to
7 correct himself. You know, maybe something would happen,
8 but nothing happened. All I got was tell immigration that
9 you need me here to raise this child for you to get your
10 divorce.

11 Apparently, he has the wrong idea of how divorce
12 happens here in the United States, and that's the only way
13 you would get your divorce. Basically after I found out
14 that I had conceived a child, the attitude and the way and
15 the manner that he treated me went, changed 360 degrees
16 from wooing and everything right to everything like this
17 child cornered me, is going to keep me in this marriage
18 whether I like it or not and --

19 Q. Excuse me. When you say "me," are you referring to the
20 petitioner, Mr. Aly Saad Aly cornered me?

21 A. Yes, ma'am.

22 Q. And you said that you gave your daughter your father's
23 last name because he believes in mutilation of the female
24 genitals?

25 A. Yes.

1 Q. What do you mean by that?

2 A. Cutting the clitoris off to prevent her from ever
3 enjoying sexual contact, or they believe that it prevents
4 them from having sex before marriage.

5 Q. And you thought changing the last name might protect
6 her. Is that what you're saying?

7 A. That, protect her because he would not be able to enter
8 a school and say, you know, I'm picking up so and so.
9 There would be no mistaking, you know. I did not want to
10 take a chance with anything happening, and on top of that,
11 if she took his last name, I felt like I would have to
12 contact him for certain things that I would have to do with
13 my daughter, you know, and I just could not stand to see
14 him anymore.

15 He's just not -- he didn't have her for the
16 reasons of having a child. He had her for the reasons of
17 gaining papers.

18 Q. Okay.

19 A. And that means to me he doesn't care about that child
20 one bit. It's just all about him.

21 Q. Okay. Thank you Ms. Roundtree. I just have a few more
22 questions.

23 A. Sure.

24 Q. Did Mr. Aly Saad Aly ever try and get in touch with you
25 after the OFP went into place?

1 A. Yes, he did. I have several e-mails in case my
2 daughter has questions later on in life that would prove
3 what he said and what he did and why I chose to get a
4 divorce.

5 Q. Did he ever come to your -- excuse me. Did he ever
6 come to your home?

7 A. Yes, he did.

8 Q. What did he do when he came to your home?

9 A. Him and my mother -- not him and my mother. My
10 mother's friend again tried to get us to an agreement and
11 come back together, but this was like a set-up marriage
12 culturally, and I lived with him. I realized it was a
13 mistake to go the cultural, the --

14 It's not religion per se. The way that you
15 listen to your mother, and everything she says is correct.
16 It was a mistake. These people don't know what is best for
17 me.

18 Q. Ms. Roundtree, I'm sorry to interrupt. Can you just
19 tell us about what happened when he came to the house?

20 A. He just tried to -- I walked into my house. I found
21 out beforehand that he was coming, and I had a restraining
22 order at the time that I could not get enforced, and he
23 tried to get my attention from inside, from indoors. I
24 didn't answer the door.

25 I just called the police and explained to them

1 that I have a restraining order because by that time, I
2 was, you know, totally afraid of this person that only
3 cared about himself --

4 Q. Okay.

5 A. -- to come anywhere near me.

6 Q. Thank you. Has he ever threatened to take your
7 daughter away?

8 A. You know, I don't really remember him threatening to
9 take my daughter away.

10 Q. Okay.

11 A. He just --

12 Q. Do you feel that your daughter would be safe if she was
13 with Mr. Aly Saad Aly?

14 A. No, I would not.

15 Q. What kind of harm are you afraid of?

16 A. She would probably be sent, you know -- the child
17 belongs with either parent, but my child will probably be
18 sent to his mom's home to be raised, and again, this man
19 has no feelings for the soul that he created; therefore,
20 this child would be in danger for her future and, you know.

21 Q. Okay. And one just simple --

22 A. I would not see her again. I'm sorry?

23 Q. I'm sorry. I just have one last question.

24 A. Uh-huh (Yes).

25 Q. Have you ever talked to Ms. Amal Aden, the petitioner

1 in this matter?

2 A. I have never spoken to her, no.

3 Q. Okay. So now what is going to happen is, opposing
4 counsel is going to get up and ask you a few questions.

5 Okay?

6 A. Sure.

7 MS. BRUCE: I have no further questions.

8 THE COURT: All right. Cross-examination?

9

10 **CROSS-EXAMINATION**

11 BY MS. BERG:

12 Q. Good afternoon, Ms. Roundtree.

13 A. Hi.

14 Q. If I understand you correctly, this was a marriage that
15 was arranged between your mother and Mr. Aly Saad Aly?

16 A. His friends and him. Actually the friend was a lawyer,
17 I believe was the responsible party for me when I got
18 married in the mosque.

19 Q. And was this pursuant to an Islamic tradition?

20 A. Yes.

21 Q. And isn't it a fact that at the time that you consented
22 to this marriage, you were involved in a relationship with
23 another male individual?

24 A. No, ma'am.

25 Q. Did you say no?

1 A. No.

2 Q. Okay. And do you recall securing a divorce from
3 Mr. Aly Saad Aly?

4 A. Yes.

5 Q. And isn't it a fact that this child is not mentioned
6 anywhere in the divorce pleadings or --

7 A. That is true. That is true.

8 Q. Yet you pursued a child support action against the
9 Mr. Aly Saad Aly?

10 A. Yes, I did.

11 Q. So you want him to pay child support, but you don't
12 want him to know the last name of the child or ever have
13 any contact with her, is that correct?

14 A. Yes.

15 Q. And the order for protection that you obtained against
16 him was never served on him, isn't that correct?

17 A. Yes.

18 Q. So he never --

19 A. Well, when he came to my house, those policeman told
20 him you have a restraining order against you, do not show
21 up here again.

22 Q. Were you present when they said that?

23 A. Yes. I was on the side of my house. He was at the
24 neighbor's, and the policeman came back and told me that's
25 what they told him.

1 Q. So you didn't actually hear what they told him, did
2 you?

3 A. No, ma'am, I did not.

4 Q. Are women expected to be obedient to their husbands in
5 Muslim religion?

6 A. Yes, they are, and husbands are expected to do certain
7 things as well.

8 Q. And isn't it a fact that Mr. Aly Saad Aly's
9 expectations regarding your, if you will -- if you'll
10 accept this term, obedience were different?

11 A. No, ma'am.

12 Q. They weren't different?

13 A. Repeat your question again, please?

14 Q. Isn't it correct that the expectations of Mr. Aly Saad
15 Aly about your conduct as a wife was different than yours?

16 A. They were different than what the religion said, yes,
17 ma'am.

18 Q. Where were you raised?

19 A. I was raised my first ten years of my life in Cairo,
20 Egypt, and the rest here in the United States.

21 Q. Okay. Are you currently married?

22 A. Yes, I am.

23 Q. And what nationality is the individual to whom you are
24 married?

25 A. Egyptian.

1 Q. And how long have you been married?

2 A. Since January 16th of 2010.

3 Q. What do you think of Mr. Aly Saad Aly's character?

4 A. Only cares about himself. He doesn't care about anyone
5 else, and he has the religion -- he has, his knowledge of
6 religion is not right at all, not just with women,
7 different subjects, all kinds of subjects across the board
8 so --

9 Q. So do you believe that your knowledge and
10 interpretation of Islamic religion is correct?

11 A. Yes, ma'am, to as much as I know, but no one is
12 perfect, and there is a lot more knowledge to find out
13 about.

14 Q. Okay. Thank you, Ms. Roundtree.

15 Your Honor, I move again to have this testimony
16 stricken for the record. It serves no purpose. It's
17 character slander. It's over ten years old, allegations,
18 no opportunity to dispute the allegations at the time.
19 Totally unhelpful to the finder of fact in this case.

20 THE COURT: Well, I'm going to overrule the
21 objection and the motion to strike. All those arguments go
22 to the extent of the Court's ability to take into account
23 the evidence as opposed to its admissibility.

24 All right. Is there any additional examination,
25 Ms. Bruce?

1 MS. BRUCE: Just one question, Your Honor.

2 THE COURT: Sure. Go ahead.

3

4 **REDIRECT EXAMINATION**

5 BY MS. BRUCE:

6 Q. Ms. Roundtree, it's Ms. Bruce again.

7 A. Yes. Hi.

8 Q. Take a minute. Catch your breath.

9 A. I'm sorry.

10 Q. Don't apologize. Tell me when you're ready.

11 A. I'm ready. Go ahead.

12 Q. Okay. I just have one more question.

13 A. Yes.

14 Q. Was there also ever any verbal abuse in your
15 relationship with Mr. Aly Saad Aly?

16 A. Yes, there was.

17 Q. Can you please describe that for the Court?

18 A. You are not to speak unless spoken to. If I ever asked
19 a question, he always mentioned that I do not know enough
20 about the religion making me think that I'm, you know, less
21 of a person than I am. These are the only two that I
22 remember that come to my mind.

23 Q. Just catch your breath.

24 A. Go ahead.

25 Q. Ms. Roundtree, I have no further questions --

1 A. Okay.

2 Q. -- at this time. Thank you so much for calling.

3 A. Thank you.

4 THE COURT: Ms. Berg, anything else?

5 MS. BERG: No, Your Honor.

6 THE COURT: All right. Thank you, Ms. Roundtree.

7 THE WITNESS: Thank you.

8 THE COURT: You're done now. We appreciate it.

9 THE WITNESS: Okay. No problem.

10 **(Witness excused.)**

11 THE COURT: All right. Next witness?

12 MS. BRUCE: Your Honor, we call Ms. Heba Mustafa
13 to the stand. She's here in the courtroom.

14 THE COURT: Very well.

15 **(Witness sworn.)**

16 THE COURT: You may proceed, Ms. Bruce.

17

18 **HEBA MUSTAFA,**

19 after having been first duly sworn, was examined and
20 testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. BRUCE:

23 Q. Good afternoon, Ms. Mustafa.

24 A. Good afternoon.

25 Q. Ms. Mustafa, what do you do for employment right now?

1 A. I work as an interpreter and going back to school.

2 MS. BERG: Could you put the mic up closer,
3 please.

4 THE WITNESS: Am I okay? Can you hear me?

5 BY MS. BRUCE:

6 Q. Yes, I do.

7 A. Okay.

8 Q. What languages do you interpret?

9 A. Arabic, Arabic to English.

10 Q. Excuse me?

11 A. Arabic to English, yes.

12 Q. Okay. And do you interpret different dialects of
13 Arabic?

14 A. Yes, I do.

15 Q. How many?

16 A. So many. I can mention some of them. There are
17 different countries in the Middle East. Speaking of the
18 Gulf area, there is so many dialects. I was born and
19 raised in one of these countries, so I know that, and then
20 I know Egyptian, Lebanese. I'm originally from Palestine,
21 so I speak -- Palestine and Egypt speak similar. I know
22 Sudanese, Moroccan variety, Iraqi.

23 Q. That's a lot.

24 A. Yeah.

25 Q. Do you know the respondent in this matter, Ms. Amal

1 Aden?

2 A. Yes, I do.

3 Q. How do you know her?

4 A. We went to school together. We met at Minneapolis
5 Community and Technical College.

6 Q. Do you remember about what year that was?

7 A. 2001.

8 Q. And when did you -- excuse me. Where and how did you
9 meet?

10 A. We used to meet in the cafeteria. There was Muslim
11 organization and different activities in the school that we
12 met through. We became good friends with other girls as
13 well.

14 Q. And you're still friends?

15 A. Yes, we do.

16 Q. Do you know the petitioner in this matter, Mr. Aly Saad
17 Aly?

18 A. No, I don't.

19 Q. Have you heard of him?

20 A. Yes. As a husband of my friend, yes.

21 Q. And how did you first hear of him?

22 A. When Amal -- we had a gathering when she was getting
23 married and moving to Canada, and so that's how I heard
24 about him and what he does. Very little. Not much
25 details.

1 Q. Has the petitioner ever contacted you?

2 A. Mr. Aly?

3 Q. Yes. Mr. Aly Saad Aly, yes, the petitioner.

4 A. Not directly.

5 Q. Has he ever contacted you indirectly?

6 A. Yes.

7 Q. When has he done that?

8 A. It was July 1st of 2012.

9 Q. Can you tell the Court what happened on July 1st, 2012?

10 A. I was browsing my Facebook, and on the right corner, we
11 see, you know, list of friends who are online, and there
12 was, I saw Amal Aden's name that shows that she is online
13 with a green circle and another friend who we both, three
14 of us went to the same school. We have been friends since
15 then.

16 Q. What is that friend's name?

17 A. Aziza, Aziza Abdelwase.

18 Q. Was it common to see Amal online?

19 A. No.

20 Q. Why not?

21 A. Before Amal got married, you know, she works hard full
22 time. We do more talking on the phone than chatting, and
23 then when she moved to Canada, I probably didn't see her
24 online that often at all. I would say maybe once.

25 Q. Excuse me.

1 A. Sorry. Go ahead.

2 Q. Are you ready? When you saw her online, what did you
3 do?

4 A. Actually Amal Aden popped up saying salaam, which is
5 hi, and so we started the conversation from there.

6 Q. Okay. Ms. Mustafa, can you turn your attention to in
7 your binder what is marked as Exhibit 30, please?

8 A. Yes.

9 Q. Do you recognize this?

10 A. Yes, I do.

11 Q. What is this?

12 A. This is a conversation that happened between me and
13 supposedly Amal Aden.

14 Q. And how do you know that that's what this is?

15 A. How do I know what? I'm sorry.

16 Q. How do you know that this is that conversation?

17 A. Because it's from my Facebook page.

18 Q. Who is that picture of there?

19 A. That's my son.

20 Q. Your son?

21 A. My son, yes.

22 Q. When you first started typing on Facebook messaging,
23 did you notice anything out of the ordinary, anything
24 strange?

25 A. No, not right away.

1 Q. I'm sorry. I just want to go back. I forgot to ask
2 one question. Can you turn your binder to what is marked
3 Exhibit 30T?

4 A. Yeah.

5 Q. And do you know what this is?

6 A. This is the same thing, just translated.

7 Q. Translated, okay.

8 Your Honor, I offer Exhibits 30 and 30T, the
9 translation of Exhibit 30, into evidence?

10 MS. BERG: Again, Your Honor, we object. This is
11 speculative. It is -- there is no direct knowledge of this
12 witness as to who or what was going on, and it's
13 irrelevant.

14 MS. BRUCE: May I?

15 THE COURT: Go ahead.

16 MS. BRUCE: This witness is going to testify to
17 what this evidence speaks to, and it's directly relevant to
18 the petitioner's credibility in this matter.

19 THE COURT: Objection is overruled. Go ahead.
20 30 and 30T are admitted.

21 BY MS. BRUCE:

22 Q. Okay. So I had asked you if there was anything strange
23 at the beginning of this conversation.

24 A. Not right at the -- no.

25 Q. And at some point was there something strange you

1 noticed?

2 A. Yes.

3 Q. What did you notice?

4 A. As the conversation goes, there is a few things I
5 noticed as far as words are used that I'm not familiar that
6 Amal would say.

7 Q. What kind of words? What do you mean?

8 A. More of Egyptian words. Also the Arabic typing, I was
9 very, at first I was surprised because at the beginning I
10 believed it's Amal. Nothing came to my head that it
11 couldn't be Amal, especially I saw her about a week or so
12 before. I know she was in town and --

13 Q. What about Arabic typing stood out to you?

14 A. Amal doesn't type in the laptop or computer. First,
15 there is no Arabic keyboards, doesn't have the Arabic
16 letters. I know that because I got an Arabic keyboard from
17 overseas, and I trained on that for a while.

18 That's why when she spoke to me, I typed in
19 Arabic. I get comfortable because we speak in Arabic when
20 we are together. So when I saw Amal type in Arabic, I
21 thought, oh, that is kind of like, oh, Amal learned to type
22 in Arabic fast because she is good in English, too. That's
23 the first thing.

24 Q. Can you turn to page 1, 30T-001. I'll look at the
25 English one. Maybe you can, too. At the bottom there it

1 says, I missed you. What does this say in Arabic?

2 A. Wahshtenee.

3 Q. Is that strange in any way?

4 A. That's Egyptian.

5 Q. Egyptian. Turn to page 3, please?

6 A. Page 3?

7 Q. Three lines down it reads, I created a big mess, is
8 that right?

9 A. Yes.

10 Q. Is that strange to you?

11 A. That's straight Egyptian. No other dialect use that
12 word. That ana aaket, specifically that's an Egyptian
13 word.

14 Q. And page 6, at the top, any words that stand out there
15 to you?

16 A. Yes. Nothing.

17 Q. Nothing?

18 A. Yes.

19 Q. Where is that?

20 A. Ma fesh. That's Egyptian. That's how they say it.
21 That means nothing.

22 Q. So that's at page 6 at the top of the page?

23 A. Mm-hmm (Yes).

24 Q. Ms. Mustafa, is there anything else that made you think
25 that this was not Amal?

1 A. Yes. There is one thing that I also felt it's not
2 Amal, but I still wanted to support her when she said I did
3 a big mess, I want somebody to help me to get back to my
4 husband and, you know, the whole conversation.

5 Q. Was the tone of the conversation Amal's typical tone?

6 A. No.

7 Q. Why not?

8 A. Absolutely not. When I met her, when I saw her first
9 time after she moved back to Minnesota, she was very
10 comfortable in what she did, and she felt safe, and you
11 know, I know Amal. When she speaks, I mean, I learned from
12 her to be, you know, a strong person and very calm, and
13 even if she does something not right, she will not put
14 herself down like I'm worthless, I'm not this, I'm not
15 that. No.

16 So that when she started talking this way, I
17 still give her the excuse that she is stressed. This is
18 something she wasn't expecting, so I offered help. We can
19 help her. If that's what she wants, I will support her
20 even if I know she might not be happy to go back to him.

21 Q. Can you please turn to page 010, 010?

22 A. 010?

23 Q. Yep. Then about halfway down, you ask Amal, Are you
24 all right, isn't that correct?

25 A. Yes.

1 Q. And what does she respond?

2 A. Yes, I feel disappointed. Yep.

3 Q. And is this what you're talking about?

4 A. That's what I'm talking about.

5 Q. So what did this "I feel disappointed" make you think?

6 A. That's when I started feeling this is not Amal, and I
7 wanted to know more. I asked why.

8 Q. Can you please turn to page 8. I would like you to
9 start on the third line and just read to the Court. It's
10 pretty short, but through to page 10. I'll tell you when
11 to stop.

12 A. So start from page 8, third line?

13 Q. Third line down.

14 A. When I said call her, is that --

15 Q. Yeah. When you say call her, who did you mean?

16 A. I meant my mom.

17 Q. Go ahead and read, please.

18 A. Call her right away. She is up. I called her and told
19 her. She is telling you to call her and explain everything
20 in order for her to call him.

21 Q. And actually before you keep reading, what is going on
22 here? Can you tell the Court what you're talking about?

23 A. Sorry. That's when she said I'm disappointed, I need
24 somebody to get involved between me and him and get me back
25 with him, whatever. I offered my mom because, as I said, I

1 know Amal over ten years. All of my friends from college,
2 we know each other very well. They come to my mom's, and
3 you know, she is well-known in the community.

4 And I just thought maybe she can talk to him.
5 She can help. She has been there to a lot of my friends,
6 and I know she is capable of doing that.

7 Q. When you say talk to him, you mean Mr. Aly Saad Aly?

8 A. Yes.

9 Q. Please go ahead. Now I'm ready for you to read.

10 A. Amal then said, yes. And I said, and I give my mom the
11 number, too.

12 Q. Okay.

13 A. You know, I provided her here in the conversation with
14 my mom's number, and then I told my mom here is Amal's
15 number, call her, and she said, thank you so much for
16 helping me, Amal. And then I said, no, sweetheart, we
17 didn't, we did nothing.

18 And I said, you know, God's willing, she will be
19 able to help you more. Just call my mom right away, and
20 everything will be fine. And she said, yes, and I kept
21 asking, did you call her? And she said, no, I didn't call.

22 I said, why? Where are you? And she said, at
23 home. I said, okay. Just call. Where is your daughter?
24 And that's where I started getting worried. She is not
25 answering. Is she home? Is she not home? I said, where

1 is your daughter. She said, with me, and that's when I
2 said, Amal, are you okay. There was a little bit of pause
3 and stop typing and back typing and so on.

4 Q. Would Amal have typically called your mom?

5 A. No.

6 Q. When you were asking her to call your mom if you were
7 talking to Amal?

8 A. Yes. Yeah. As I was saying, are you okay. I called
9 my mom right away, and I said, did she call you. And she
10 said, no. I have the phone right here. She didn't call
11 me.

12 Q. Okay. And if you will go to page 13, please, at the
13 very bottom where it reads, Amal call me, my sweetheart.
14 That's you, right?

15 A. Yes. What happened. Let's talk. Of course, I didn't
16 get a call. She said, yes. I said, call me. Let's talk.
17 She said, yes. I said, where are you. You didn't call,
18 and what happened is, I started calling her. My phone was
19 in the other room on my charger.

20 So I ran and called -- the other room and grabbed
21 the phone and started dialing, and it said it's
22 disconnected?

23 Q. You were not able to connect with Amal?

24 A. No.

25 Q. Who you thought was Amal at the time?

1 A. Yes.

2 Q. And who was Amal on the conversation able to connect
3 with you?

4 A. No. I didn't receive any phone calls, nothing. I kept
5 calling and I said, your phone is disconnected. It says
6 out of service.

7 Q. Can you go to the bottom of page 14 and read the last
8 two sentences.

9 A. The last two?

10 Q. Yep.

11 A. So Amal saying, I keep calling. No one is answering.
12 I said, no, you didn't call.

13 Q. And Amal never called?

14 A. No.

15 Q. And at the very end of the chat on page 15, you say,
16 what number do you have? You are talking to the person on
17 the other end of the chat, correct?

18 A. Yes.

19 Q. You say, Amal, what number do you have?

20 A. I said, Amal. This took a while. I kept calling her.
21 It was getting late. This started after 12:00 a.m., and so
22 it was very late to call anybody else from the girls about
23 Amal to say is she okay, where is she. I said, I will come
24 to you. I will meet with you.

25 That's the only thing that came to my head. I'm

1 just going to drive to go see her and see if she is okay,
2 if the baby is okay.

3 Q. After you asked Amal, what number do you have, where
4 are you, what happened?

5 A. There was a pause and nothing, and actually I was -- my
6 other friend who I said was online, I was asking her. I
7 said, are you chatting with Amal, and she said, yes. And I
8 said, don't you feel there's something weird, that's not
9 Amal. She said, oh, I think so, too. I said, I believe
10 so.

11 Q. And then what happened? Can you read the Court the
12 last two chunks that you typed?

13 A. Yes. I was really upset, and I wanted to say worse,
14 but I just wanted to make sure that he knows I know that's
15 not Amal. I said, you are sick and this is not right, and
16 you know, how dare you, you know, using her name talking to
17 us, her family and friends, and --

18 Q. You can just read it.

19 A. You are in sick and in need for psycho therapy. How
20 dare you talk to me and Amal's friends as if you were her.
21 Really, you are a Godless person.

22 Q. And who were you intending this for?

23 A. To him.

24 Q. Him?

25 A. Mr. Aly.

1 Q. Okay. And did you ever talk to Amal about this?

2 A. Yes.

3 Q. When?

4 A. As soon as -- it was Sunday, this all was July 1st. So
5 in the morning, around eleven or twelve, I started getting
6 calls from my other friend, Aziza. She was online. She is
7 in Canada. She was like, are you able to reach Amal. I
8 said, I'm calling everybody who knows her to see if we can
9 get a number.

10 And finally we did, and apparently, she changed
11 her number completely, and it was 651 area code.

12 Q. Who is she? What do you mean by "she," she changed her
13 number?

14 A. Amal changed her number.

15 Q. Okay.

16 A. Ms. Aden, she changed her number, and so I spoke to her
17 and explained everything happened.

18 Q. And what happened when you spoke to Amal?

19 A. She was fine. She said, I don't have Internet at home.
20 I, you know, I wasn't on Facebook last night. I was asleep
21 at home with my daughter.

22 Q. I'm sorry. Amal said she had no Internet at the time?

23 A. Mm-hmm, yes.

24 MS. BRUCE: I have nothing further, Your Honor.

25 THE COURT: Cross-examination? Ms. Kaiser?

1 MS. KAISER: Yes, Your Honor, just one question.

2

3

CROSS-EXAMINATION

4 BY MS. KAISER:

5 Q. Ms. Mustafa, you don't know who you were chatting with
6 on July 1, is that correct?

7 A. Yes.

8 MS. KAISER: No further questions, Your Honor.

9 THE COURT: Anything else, Ms. Bruce?

10

11

REDIRECT EXAMINATION

12 BY MS. BRUCE:

13 Q. You said you don't know for sure who you were talking
14 with, right?

15 A. As I started the conversation, I thought it's Amal, and
16 then as we went on, I was actually very sure that's not
17 Amal.

18 MS. BRUCE: No further questions, Your Honor.

19 THE COURT: Anything else, Ms. Kaiser?

20 MS. KAISER: No, Your Honor. Thank you.

21 THE COURT: All right. Thank you, Ms. Mustafa.

22 You may step down.

23 THE WITNESS: Thank you.

24

(Witness excused.)

25

1 THE COURT: Okay. Next witness?

2 MS. BERG: Your Honor, we e-mailed Mr. Awad to
3 start earlier and have not received a response.

4 MS. BRUCE: That's fine. We have Ms. Boyle at
5 1:30. She hasn't dialed in yet.

6 THE COURT: Why don't we take a five-minute
7 break, and then we will be ready for Ms. Boyle. Okay?

8 THE CLERK: All rise.

9 **(Recess taken.)**

10

11 **(In open court.)**

12 THE COURT: All right. You may be seated.
13 Who do you have on the phone?

14 MS. BRUCE: Ms. Boyle I believe is on the line.
15 Are you on the line?

16 MS. BOYLE (Via telephone): Yes, ma'am.

17 THE COURT: All right. Thank you for returning
18 by telephone. We'll continue with your testimony.

19 Go ahead, Ms. Bruce.

20 Ms. Boyle, you're still sworn. We don't need to
21 re-swear you.

22 MS. BOYLE: Okay.

23

24

25

1 **ELIZABETH BOYLE (Via telephone),**

2 after having been previously duly sworn, was examined and
3 testified as follows:

4 **DIRECT EXAMINATION (Resumed)**

5 BY MS. BRUCE:

6 Q. Good afternoon, Ms. Boyle.

7 A. Hello.

8 Q. Thank you for cancelling your class. Could you just
9 really quickly refresh the Court on your area of expertise
10 here today?

11 A. Yes, my area of expertise with respect to this case
12 would be the history of female genital cutting,
13 particularly with respect to Egypt.

14 Q. Ms. Boyle, yesterday you stated that if the child in
15 this case underwent female genital cutting it would be
16 harmful because of the physical and psychological problems
17 frequently linked to FGC.

18 Can you explain what FGC is? I don't think we
19 had a chance to do that yesterday.

20 A. Mm-hmm. Sure. Well, the type of FGC that is performed
21 in Egypt most typically is called type two under the World
22 Health Organization guidelines or rubric, and that's
23 clitoridectomy, which is exactly what it sounds like. It
24 is the removal of the clitoris.

25 Q. And yesterday you testified that there were physical

1 and psychological complications. I think you covered the
2 physical pretty thoroughly, but can you please address the
3 psychological implications?

4 A. Yeah. There have been a number of studies done that
5 show the psychological consequences of the practice. So a
6 recent study in the American Journal of Psychiatry found
7 that about 80 percent of circumcised women were suffering
8 from anxiety disorders, and about a third of the women,
9 over 30 percent, were suffering symptoms of post traumatic
10 stress disorder.

11 And this level is comparable to the levels of
12 PTSD among children who have been abused, physically abused
13 as children. In addition to those consequences, other
14 psychological consequences that are typical are depression,
15 sleeplessness, anxiety, fear of sexual intercourse.

16 So those are the psychological consequences of
17 the practice.

18 Q. Ms. Boyle, yesterday you also briefly testified that a
19 number of facts about petitioner make you particularly
20 afraid that petitioner will seek to have his daughter
21 undergo female genital cutting.

22 A. Mm-hmm (Yes).

23 Q. Can you tell the Court again what those facts or
24 factors are, please?

25 A. Yes. Well, yesterday when I was testifying, we talked

1 about the fact that he is from Egypt. There is a number of
2 factors in addition to that. Any one of these I think is
3 important in my, my assessment that this is a likely
4 possibility of grave risk.

5 First, the petitioner apparently said that he
6 wanted to have Princess circumcised, and he has shown an
7 interest I think in a number of ways in women's chastity,
8 and since female genital cutting is performed to keep
9 women's sexuality in check, this would be consistent with
10 that kind of idea.

11 In addition, the Salafi, as I mentioned
12 yesterday, Salafi Muslims have taken a very conservative
13 view towards women's rights, and my understanding is that
14 Mr. Aly Saad Aly is Salafi, and recently, the Salafi party
15 introduced legislation in Egypt that would legalize female
16 genital cutting, which goes to the specific issue.

17 And in addition to that -- oh, go ahead.

18 Q. No. Please go ahead.

19 A. Okay. In addition to that, there is a number of things
20 in the record that suggest that Mr. Aly Saad Aly takes a
21 conservative perspective like that of the Salafi with
22 respect to women. So the fact that he has been married and
23 divorced -- married five times in the last ten years
24 suggests that he is following a particular view of Islam
25 that allows, that gives men easy access to divorce.

1 Also, yesterday when he was testifying about
2 polygamy, I was struck by how he talked about what the
3 Koran literally says, but there wasn't a but after that.
4 When I talk to Muslims who take a more balanced view toward
5 men and women and interpret the Koran that way, they often
6 talk about those parts of the Koran, but then they go on to
7 say, but, you know, the Koran makes it difficult to do
8 polygamy, or but my personal opinion is, but it's against
9 the law here.

10 So I was sort of struck by how he talked about
11 polygamy such as this is what the Sharia says with no kinds
12 of qualifications on that, and so it seems to me that from
13 what I've seen, Mr. Aly Saad Aly is culturally very
14 conservative and is taking a view of Islam or perceiving
15 Islam as requiring a particular kind of response to women's
16 sexuality that would be, that would involve female genital
17 cutting.

18 Q. Okay. And so if Mr. Aly Saad Aly were not Salafi and
19 couldn't be shown to be Salafi, were not Salafi in any way,
20 would your opinion change on this matter?

21 A. No, because I think he has demonstrated the kinds of
22 views that the Salafi hold in other things that he has
23 said.

24 Q. Okay. I just want to switch gears a little bit. Are
25 you concerned that Ms. Aden is interested in having her

1 daughter circumcised since she is from Somalia where you
2 have testified that female genital cutting is more common
3 than Egypt?

4 A. Right. No, I'm not concerned. You know, first in
5 terms of the studies, you find that among immigrant women,
6 support for female genital cutting tends to be very low. I
7 think having experienced female genital cutting themselves
8 and all the consequences, negative consequences from it,
9 these women are eager to abandon the practice.

10 And then the second thing is just in terms of,
11 I've spoken to many individuals about female genital
12 cutting, individuals who live in practicing communities,
13 and in my conversations with Ms. Aden, I've had the sense
14 that she is very adamantly opposed to it.

15 She didn't, you know, when we were chatting about
16 it, she was very adamant, but just like when I was talking
17 about some of these provisions in the Sunna that are
18 somewhat contested, it was clear that she knew about them,
19 but I couldn't even finish my sentences.

20 She would just say, no, no, that's not Islam. So
21 it just seemed like it was a really strong and sincere
22 belief that female genital cutting was wrong and was not
23 allowed under Islam.

24 Q. I'm sorry if you just stated this, but do you know if
25 Ms. Aden herself underwent female genital cutting?

1 A. Yes, she did.

2 Q. Okay. And these conversations with immigrant women you
3 were mentioning, were these in the process of your
4 research?

5 A. Yes. In the process of my research, and then because
6 of my topic of research, of course, I talk to a lot of
7 other academics who are from Africa, and so it's also in
8 that context.

9 Q. Okay. Does your opinion that the things we've talked
10 about today, that someone who is very conservative,
11 Egyptian, mostly would favor and seek out FGC, does it
12 change given the fact that Mr. Aly Saad Aly is in Canada
13 and not in Egypt?

14 A. It doesn't. I still think that Princess is at grave
15 risk because Mr. Aly Saad Aly can take her to Egypt, and in
16 Egypt, it's easy to get the practice performed. And then
17 unfortunately, even though it's against the law in Canada,
18 it is possible to, to have it done there if one thinks it's
19 important.

20 And it seems like based on the conversation,
21 everything I have just said, it seems like he does want to
22 have it done.

23 Q. Okay. Have you had a chance to review the report of
24 Mr. Awad in this case?

25 A. Yes, I have.

1 Q. And do you agree with his opinion in this matter with
2 respect to the FGC issue? I know he talked about some
3 other issues, but just on the FGC issue?

4 A. I think -- well, Mr. Awad is kind of talking about a
5 snapshot in time, and he's focused on the formal law, which
6 is problematic in two ways. He has focused on the period
7 2006 to 2008 when Egypt was making progress, but as I
8 talked about yesterday, politics have changed in Egypt.

9 Mubarak was actively mobilizing to change
10 behavior about female genital cutting, and it seems like
11 Morsi has no interest in doing that. So it's not so much
12 in that sense that I disagree with him. I just think that
13 he is taking a particular moment in time and kind of
14 highlighting that.

15 And then the second thing I would say is that I'm
16 not focusing on individual behavior. He's really missing
17 the disconnect. You know, when over 90 percent of women
18 are circumcised, over 60 percent of girls under 17 are
19 circumcised, the practice is still happening regardless of
20 what the law is.

21 And then finally, just I think as a smaller
22 matter, he said that female genital cutting is rapidly
23 decreasing in Egypt, and I would take issue with the term
24 "rapidly." Relative to other countries, Egypt has been
25 slower to change.

1 Q. Okay. Thank you.

2 A. You know what? I do think that in terms of his facts,
3 I wasn't seeing anything that I would disagree with.

4 Q. Ms. Boyle, just to tie everything together since this
5 has been over two days, what is your opinion in this
6 specific case?

7 A. My opinion is that if Princess is returned to her
8 father in Canada that she, she is at grave risk of being
9 circumcised and suffering the physical and psychological
10 consequences of that procedure.

11 MS. BRUCE: No further questions from me. I
12 think Ms. Berg will come up now.

13 THE WITNESS: Okay.

14 THE COURT: All right. Cross-examination,
15 Ms. Berg?

16 MS. BERG: Thank you.

17

18 **CROSS-EXAMINATION**

19 BY MS. BERG:

20 Q. Ms. Boyle, so the prevalence of female genital
21 mutilation is greater in Somalia than it is in Egypt, is
22 that correct?

23 A. Yes.

24 Q. So am I correct in understanding the only reason that
25 Princess is at grave risk if returned to her father is

1 because he's a man?

2 A. No. It's different perspectives on Islam and the
3 practice between Amal and Mr. Aly Saad Aly.

4 Q. They both come from cultures where this is a practice.
5 Ms. Amal is in fact a victim of the practice. Mr. Aly Saad
6 Aly has testified vigorously he is opposed to the practice,
7 but apparently none of that matters, right?

8 A. Well, I think that when you look at the totality of the
9 orientation, when you look at the totality of the
10 orientation toward women and toward Islam and then you
11 compare that to the substance of research, you get a sense
12 that, you know, every individual is obviously different.

13 And my opinion is that Mr. Aly Saad Aly appears
14 to take a perspective on -- with respect to Egyptian
15 culture and with respect to Sharia that says that female
16 genital cutting should happen, whereas --

17 Q. What's your direct source of information for that fact
18 that you just stated?

19 A. The sources of information are what I know about
20 Islamic beliefs and then what's in the record in terms of
21 the things that Mr. Aly has said or that Ms. Amal had said
22 about Mr. Aly.

23 Q. What things has Mr. Aly said that you can use to
24 support your conclusion that --

25 A. Mm-hmm (Yes).

1 Q. -- he would have his daughter mutilated?

2 A. Mm-hmm. Well, in the record, Amal has indicated that
3 he told her --

4 Q. No. I'm asking you what he said.

5 A. Oh, direct from him? Well, listening to his testimony
6 yesterday, as I mentioned, I think his testimony regarding
7 polygamy suggested to me that kind of orientation, and then
8 the second --

9 Q. Let me stop you there.

10 A. Sure, mm-hmm.

11 Q. I asked him a direct question about whether or not men
12 could be in polygamist marriages and whether women could be
13 in polygamist marriages. I wasn't asking for an
14 intellectual discourse from the Koran.

15 A. Right. Yeah, I understand that. It's just usually,
16 the Koran is not -- most, I would say most Muslims today
17 view the Koran somewhat differently than the way that
18 Mr. Aly Saad Aly talked about it yesterday.

19 I mean, he was taking it very literally with kind
20 of no, no kind of nuance around that, and I think that most
21 Muslims today would introduce more cautionary notes about
22 male polygamy under the Koran.

23 Q. Are you Muslim?

24 A. No, I am not.

25 Q. Where were you raised?

1 A. In the United States.

2 Q. So all your information about the cultural belief of an
3 Egyptian man who lives in Canada are based on research,
4 correct?

5 A. Right. Research and talking to people.

6 Q. Okay. None of whom included Mr. Aly Saad Aly?

7 A. No. I would mention one other issue, though, because
8 you asked about direct evidence. I guess the other, the
9 other part of the record that struck me was the five
10 marriages in ten years, which again suggests to me a more
11 conservative orientation with respect to women's rights
12 under Islam because it seems like it's linked to a more
13 literal interpretation of the Koran with respect to men's
14 access to divorce.

15 MS. BERG: I have nothing further.

16 THE COURT: Ms. Bruce, anything else?

17 MS. BRUCE: I also have nothing further.

18 THE COURT: All right. Thank you, Ms. Boyle.

19 We're done with you.

20 THE WITNESS: Okay. Thank you.

21 THE COURT: Thanks very much.

22 THE WITNESS: Bye bye.

23 **(Witness excused.)**

24 MS. BERG: Your Honor, we have Mr. Awad on the
25 phone.

1 THE COURT: Okay. Very well.

2 MS. BERG: Abed, would you take off your mute?

3 MR. AWAD (Via telephone): Yes. I'm going to
4 call you from a land line.

5 MS. BERG: Okay.

6 THE WITNESS: I'm going to call right back.

7 MS. BERG: Okay.

8 MR. AWAD: Good afternoon.

9 MS. BERG: Very good. Thank you, Mr. Awad.

10 MR. AWAD: Yes. How are you doing, Nancy?

11 MS. BERG: Good. How are you?

12 MR. AWAD: I'm doing well.

13 THE COURT: Mr. Awad, before you testify, we have
14 to have you sworn. We'll just take a moment. Okay?

15 THE WITNESS: Okay, Judge. Thank you.

16 **(Witness sworn.)**

17 THE COURT: Okay. You may proceed, Ms. Berg.

18 MS. BERG: Thank you.

19

20 **ABED AWAD (Via telephone),**

21 after having been first duly sworn, was examined and
22 testified as follows:

23 **DIRECT EXAMINATION**

24 BY MS. BERG:

25 Q. Mr. Awad, very slowly.

1 A. Yes, I know. I talk quite fast, so I will be
2 conscience of speaking slowly.

3 Q. Perfect. That's the pace. Reminding you again to let
4 me finish because you just cut me off again.

5 A. Sorry.

6 Q. Please, what is your professional -- what is your
7 profession?

8 A. I am an attorney admitted to practice law in the state
9 of New Jersey and the state of New York, and I am a partner
10 at a law practice in northern New Jersey.

11 Q. And what is your religion?

12 A. Muslim.

13 Q. Where were you born and raised?

14 A. I was born in Inglewood, New Jersey. When I was six
15 and a half, my father after leaving the military relocated
16 to his little village where he originated from in
17 Palestine, a village in the outskirts of the main city,
18 Ramallah, and I started second grade in Ramallah, and I
19 stayed there from second grade through eleventh grade.

20 My father as an American residing abroad wanted
21 me to have an American education, so the school that I
22 attended was the Friends Boys School, a Quaker school, in
23 Ramallah, and we studied both Arabic and English together.

24 Q. Are you -- are you fluent in Arabic?

25 A. Yes, I read, write Arabic fluently. In fact, when I

1 was a law student, I did professional translations of legal
2 texts.

3 Q. And do you consult courts on Sharia law?

4 A. I have testified as an expert on Islamic law, Sharia
5 law and the laws of the Middle East probably around 30
6 times around the country in different capacities,
7 whether -- I testified as an expert on Egyptian law
8 numerous times, and I have written many reports about
9 Egyptian law.

10 Q. And did you prepare a report in this case?

11 A. Yes, I did.

12 Q. And that is Exhibit 26 which has previously been
13 admitted?

14 A. That is correct.

15 Q. What information did you review in preparation of this
16 report?

17 A. Given that I am an expert on the areas or the questions
18 that I raised and articulated in the beginning of my
19 report, I'm not a finder of fact. I relied upon the
20 following documents --

21 Q. You know what, Mr. Awad, that's in your report. I
22 neglected to consider that fact when I asked the question.
23 It's at page 3 of your report, so I'm going to assume the
24 Court will read the report and understand what documents
25 you have reviewed.

1 Did you have the opportunity to listen to
2 Ms. Boyle's testimony this afternoon?

3 A. Yes.

4 Q. And did you have an opportunity to review her report?

5 A. Yes.

6 Q. Now, do you also handle Hague Convention child
7 abduction cases?

8 A. Yes, I do. A substantial part of my practice is
9 devoted to family law related matters, including custody
10 and international custody disputes. I do a fair amount of
11 expert work, but I also represent left behind parents in my
12 private practice, including Hague cases.

13 Q. Now, it seems that the theory of the case that has
14 developed here is that in the event that there is an
15 allegation of domestic violence that child abduction is the
16 preferred remedy for securing the safety and well-being of
17 the child.

18 Is that a fair reading of the grave risk defense
19 or what seems to be the defense in this case?

20 MS. NELSON: Objection, Your Honor. Mr. Awad was
21 not noticed as an expert on the Hague Convention, nor is
22 such an expert needed in this case.

23 MS. BERG: I'm just asking his opinion based on
24 his review of the pleadings in this matter and the
25 particular attack on Egyptian culture.

1 THE COURT: Well, I will allow him to testify,
2 not as an expert on this subject, but he can testify as to
3 his views.

4 BY MS. BERG:

5 Q. Go ahead, Mr. Awad.

6 A. Yes. In addition to my private practice, and I think
7 this is relevant to my opinion, I'm on the adjunct faculty
8 of three university law schools, and one of the courses
9 that I teach is matrimonial litigation, which is a
10 matrimonial litigation class on motion practice. And
11 sometimes we do address issues relating to international
12 child abduction and do discuss the Hague Convention in
13 class.

14 My opinion in reviewing the report and reviewing
15 the pleadings is that it appears that the entire theory of
16 the case is hinged on the speculation that if the Court
17 finds that domestic violence took place that that alone is
18 sufficient to raise enough question that the father is
19 likely to have his daughter subjected to female genital
20 mutilation simply because of the fact that he committed
21 domestic violence against his wife and that alone should be
22 a risk of returning his child.

23 I find that speculative in that opinion, and
24 unless there are substantial findings of fact that -- other
25 than what I have seen, there is no basis for it.

1 Q. Now, both parties are products of a culture where
2 female genital mutilation occurs. Yet we seem to be only
3 concerned about Mr. Aly Saad, is that correct?

4 A. That is correct. And given the -- there is really no
5 generalization you can make about cases like this because I
6 remember when I was a freshman in studying political
7 science and statistics, when you do polling and when you do
8 surveys, it depends on the variables that are controlled.

9 And if you control a variable based on race,
10 you're going to get a different answer. If you control it
11 based on income, you're going to get a different answer.
12 So because there is so many different variables, in the
13 female genital mutilation circumstance, when you control
14 the variable to the level of education, automatically you
15 see this drastic drop.

16 So the higher the education of the parties, of
17 the parents, the higher the education of the mother, the
18 less likely that they would subject their daughter to
19 female genital mutilation. So I think that taking these
20 huge generalizations from statistics, without taking into
21 account these other variables, is doing a disservice, and
22 it's really not giving us a full picture.

23 When you see in the recent statistics that I
24 attached to my report, when a mother has a college
25 education, the prevalence of female genital mutilation

1 drops to like 20 percent from 65 percent. So that just
2 says something about how we need to be careful in viewing
3 the circumstances regarding female genital mutilation.

4 Q. You've also heard testimony, I believe, that supports
5 the notion that Mr. Aly Saad Aly is of a patriarchal
6 mindset, which is explained by the fact that he has been
7 married five times.

8 Do you see the linkage there?

9 A. No, I do not. And in fact, I come from a small
10 village, a rural village, very conservative. In my part in
11 Palestine, we never even heard of female genital
12 mutilation, and the level of religiosity in my town is very
13 high, and they never conducted genital mutilation.

14 So it's clear that it's a cultural aspect of the
15 practice that is not linked to Islam but rather to non
16 Muslims and animists and other communities, but there is a
17 very strong awareness currently in advocacy groups around
18 the world and in Egypt trying to raise awareness that this
19 practice is inconsistent with the dictates of Islam and
20 should not be performed.

21 And we do see the drop in the prevalence of this
22 procedure, and that means that the advocacy and the
23 education is actually working.

24 Q. Now, did you hear Ms. Boyle's testimony that because
25 Mr. Aly Saad Aly has been married five times, that's a

1 predictor for female genital mutilation?

2 A. Yes, I did. And there is no basis whatsoever for such
3 a conclusion, and again, this is a, a, a factual finding
4 that the Court will make, but when I -- when you think of
5 sexual relationships in a Muslim society, Islam views
6 unlawful sexual relations as the source of social
7 disharmony and social problems in society.

8 And because of that, Islam has a very strict view
9 of regulating sexual relations through marriage. So that's
10 the only way that you can have lawful sexual relations in
11 Egypt religiously, because the other thing we may want to
12 keep in mind here is that for a Muslim, his concern is with
13 the hereafter and his moral accountability to the religious
14 dictates of the divine.

15 So if the Muslim is pious and he believes that
16 unlawful sexual relations would lead him to eternal
17 damnation and that unlawful sexual relations is a grave
18 moral sin, well, of course, he is going to be very worried
19 about committing such act, and this goes both ways for
20 Muslim women and Muslim men.

21 I have seen so many Muslim women who are dating
22 other men and refuse to engage in sexual relations unless
23 they enter into a marriage contract. So this is not
24 peculiar to a male. This is a two-way street. Mr. Aly
25 does not want to have unlawful sexual relations because he

1 does not want to commit a capital grave moral sin, and the
2 woman who he is sleeping with, who is also likely to be
3 pious like himself, is also not going to want to have sex
4 with him unless she is married from a legal perspective so
5 that she avoids committing sin.

6 This is not a patriarchal system. This is a
7 moral system that applies both to male and female. Now
8 saying that somebody was married five times and that means
9 he is very religious and he is using that as his simple
10 access to divorce, from my review of the documents, all of
11 the divorces were judicial divorces.

12 These are not religious divorces. Other than the
13 divorce that took place in Egypt, which was also
14 registered, these are judicial divorces in European
15 countries, in a western country, divorces in Louisiana,
16 divorces in Florida, divorced in Canada.

17 So these divorces that Mr. Aly was involved in
18 did not reflect anything relating to the patriarchal system
19 and his easy access to divorce. It reflected a foreigner,
20 a student from a conservative country who is pious. Now he
21 has exposure to a western culture, is alone, doesn't have
22 family, and does not want to commit the moral sin.

23 So when he does meet people and he meets a woman
24 and he is interested in her, the only way he can proceed to
25 the next level is, he has to be married to her, and that's

1 why he married. And unfortunately, these relationships,
2 he's young, he's a student, they were probably destined not
3 to work out to begin with, and they ended up in divorce.
4 And I see this prevalence as a divorce lawyer who
5 represents a lot of people in the immigrant community. I
6 see these multiple divorces that immigrant students go
7 through quite regularly.

8 Q. Did you read the report of Jeffrey Edleson?

9 A. I glanced at it. I did go through it, yes.

10 MS. BERG: I have nothing further. Thank you,
11 Mr. Awad.

12 THE WITNESS: Thank you.

13 THE COURT: Cross-examination? Go ahead when
14 you're ready, Ms. Nelson.

15 MS. NELSON: Thank you, Your Honor.

16

17 **CROSS-EXAMINATION**

18 BY MS. NELSON:

19 Q. Mr. Awad, this is Laura Nelson. I'm one of the
20 attorneys for the respondent in this case.

21 A. Nice to meet you.

22 Q. Mr. Awad, would a devote Muslim man be alone in his
23 apartment with an unmarried woman that he is not related
24 to?

25 A. Would feel alone?

1 Q. Would he be alone in his apartment with an unmarried
2 woman he wasn't related to?

3 A. I mean, it's kind of difficult to make such an absolute
4 generalization. It would depend. Is this alone where?
5 Alone in his room? Is she Muslim like him? Is she a
6 foreigner? It may be inappropriate. It may be a
7 temptation for him to maybe engage in a sexual
8 relationship.

9 It's not a moral sin, as engaging in sexual
10 relations, but if you want to generalize, depending on the
11 level of piety and religiosity of the individual, it may
12 not be appropriate.

13 Q. Turning to female genital mutilation, if I call it FGM,
14 do you know what I'm talking about?

15 A. Yes, I do.

16 Q. So you agree that FGM is a horrible crime against
17 girls, right?

18 A. Yes.

19 Q. Okay. And you know that it can have long term physical
20 health consequences, like depression -- chronic pain and
21 higher rates of birth complications?

22 A. Yes.

23 Q. And you know that it can have long term psychological
24 consequences, like depression or post traumatic stress?

25 A. Well, based on some of the surveys that I have read,

1 yes.

2 Q. Okay. And you would agree that if the child in this
3 case, if she were to be circumcised, that would be a great
4 harm to her?

5 A. Of course.

6 Q. Okay.

7 A. But that's what the father told me. He believed
8 wholeheartedly in my interview that he does not believe in
9 female genital mutilation, that he subscribes to the
10 religious decree that was issued by the highest authority
11 at Azar University that says that the procedure is
12 unIslamic and that he would never subject his daughter to
13 that.

14 So I believe that the petitioner also concedes
15 with my opinion that it's not something that I would have
16 my daughter be subject to.

17 Q. Okay, Mr. Awad. And you stated in your report that FGM
18 has no basis in Islamic law, right?

19 A. I said that FGM has been found to be unIslamic based on
20 the interpretation of the head religious scholar, the
21 highest authority in Egyptian legal circles, that it is
22 unIslamic, that there are small minority opinions that
23 would say that while it is not --

24 Let me explain.

25 Q. Actually, Mr. Awad, what I would like you to do is just

1 listen to my questions and just answer them.

2 A. Yes.

3 Q. If opposing counsel wants to get an explanation from
4 you, she can jump up here and clarify from you, but I just
5 want to move this along.

6 So you agree that there is not complete consensus
7 on this issue of whether or not FGM is based in Islamic
8 law?

9 A. No. I need to explain because it's -- a yes and no
10 answer for this question won't work because under Islamic
11 law, there is a level of saying something is required and
12 then something that is not required.

13 There is consensus that it is not a required
14 ritual under Islamic law, but there is dispute on whether
15 maybe it's a discretionary thing for people to do. So
16 there is dispute on that, that that -- that that's the only
17 saying that it is discretionary. There is no dispute that
18 it is not a required procedure.

19 The dispute is others who say it's not required,
20 period, and it's not even recommended. And others say,
21 well, it's a discretionary issue to be made on an
22 individual basis.

23 Q. Okay. So it's your testimony that certain Islamic
24 scholars say that it's prohibited by Islam and other
25 religious scholars believe that it is permitted but not

1 required by Islam?

2 A. Yes.

3 Q. Okay.

4 A. That the majority position is that it is not required,
5 and the minority position is that it is not required, but
6 it is permitted on an individual basis, and the law evolves
7 and changes, of course.

8 Q. Sure. It does change. And I would like to talk about
9 those changes specifically in Egypt. Now it's been your
10 testimony that historically the rates of FGM in Egypt were
11 high, but they have been dropping, correct?

12 A. That is correct.

13 Q. Okay. And in your report, you rely on -- it's
14 Exhibit 15 to your report -- you rely on some UNFPA
15 statistics, correct?

16 A. That is correct.

17 Q. And those statistics are from 2006 through 2008,
18 correct?

19 A. That is correct.

20 Q. Okay. And you know that since 2008, there has been a
21 revolution in Egypt, right?

22 A. Last year.

23 Q. And you're aware that after that revolution, there has
24 been a significant change in the political landscape in
25 Egypt, right?

1 A. That is correct.

2 Q. Okay. And are you aware that a member of parliament,
3 Nasser al-Shaker of the Nour party, has proposed a bill
4 that would allow FGM and has argued on public television
5 that FGM is mandated by Islam?

6 A. Yes.

7 Q. And are you aware that Mr. al-Shaker pointed to what he
8 called notable Egyptian scholars, such as Imam Mohamed
9 Sayed Tantawi and Abdel Halim Mahmoud and Sheikh Attiya
10 Saqr, S-a-q-r, as well as the former Egyptian Mufti Nasr
11 Farid Wasel, all of whom he has stated have said that FGM
12 was authorized under Islam and is part of the Sunna?

13 A. Well, I would need to review those decisions and review
14 that information because the highest authority and Mufti of
15 Egypt during just the past year or so, Mufti Jumma, who is
16 very influential, he said and issued his ruling that it is
17 unIslamic and unacceptable.

18 And when you also look at authorities, you will
19 find authorities that would go both ways, and the
20 interesting thing about Sharia and Islamic law is that
21 there is no monopoly over divine will, so the
22 interpretation of these minority schools are not going to
23 have similar persuasive and important authority in the
24 strait of Egypt like the majority position.

25 And also you want to keep in mind, even though

1 there was a revolution, the Salafi group, the Nour group
2 that you mentioned, is really in rural areas and on the
3 margins. The Muslim Brotherhood, which is a mainstream,
4 political Islamist group, is not known for advocating that
5 female genital mutilation should be the norm, not the
6 exception.

7 Q. Okay.

8 A. So we can't generalize about these Muslim groups that
9 they all came from the same position. The Salafi minority
10 group are extremists that don't have much of a following in
11 the cities, especially in Cairo where the petitioner is
12 from, and the petitioner is doing a PhD in engineering, and
13 his family is educated.

14 So we can't lump him into a group of the rural,
15 uneducated illiterate who are following some of these
16 psychos who are spewing interpretation of Islam that don't
17 have a basis in reality.

18 Q. Okay, Mr. Awad. You mentioned that the Nour party is a
19 fringe party and that the Muslim Brotherhood party is the
20 dominant party, correct?

21 A. That is correct.

22 Q. Okay. Are you aware that MP Azza al-Garf of the Muslim
23 Brotherhood political party has also called for the FGM ban
24 to be appealed?

25 A. I didn't see it. If you show me exactly what he said,

1 I will review that, and that is, there is one person from
2 the Muslim Brotherhood asking for the repeal, doesn't mean
3 that the repeal is going to take place. Also I was on
4 Egyptian TV on the mainstream progressive liberal dream TV
5 just a day before yesterday, discussing the role of Sharia
6 in Egypt and the U. S. elections and the things that are
7 going on.

8 There is no unanimity in the street in Egypt for
9 the Muslim Brotherhood. The person who was the former
10 prime minister during the Mubarak got almost 40 million
11 votes, and the left leaning group in the follow-up election
12 got 22 million votes, only a couple of hundred less than
13 Mufti, who is currently now the prime minister, received.

14 So the point is is that their civil society is
15 quite engaged and dynamic at this point. No one group is
16 able to overturn the other. So when you have this type of
17 dynamic civil society, the ultimate outcome is moderation
18 because you can't rule unless you're with a coalition.

19 So my perspective is, there is authority from the
20 highest level that female genital mutilation is not
21 Islamic. There are very strong pro feminist groups in
22 Egypt that are working to aware -- to raise awareness about
23 this procedure and why it's not medically necessary, not
24 medically in the best interests of women.

25 So I think the issue here is, it's really, we are

1 speculating and not taking into account the level of
2 education and the other variables on the likelihood of
3 somebody subjecting his daughter to this procedure.

4 Q. Mr. Awad, you're saying that we're speculating. We
5 don't know for sure what Mr. Aly Saad Aly is going to do,
6 correct?

7 A. No, we don't.

8 Q. And you don't know, either, right? You don't know what
9 he is going to do?

10 A. Absolutely not.

11 Q. Okay. And you're basing your opinion that he would not
12 have his daughter circumcised based in part on your
13 conversation with him, right?

14 A. I'm basing my opinion, number one, again, in the end
15 this is a finding of fact. I can only give some general
16 aid to the Court to make this decision. The Court hears
17 all the testimony of the, of the petitioner and the
18 respondent and looks at the evidence and makes the call.

19 I'm saying that he told me he supports the
20 position of the mainstream Islamic organization's position
21 that it is unIslamic. He told me he won't do it.

22 Q. Okay.

23 A. And I am looking at the variables in all of these
24 studies that show somebody of his educational level and
25 that he comes from a city, and he lives in Canada, that the

1 likelihood of him doing this is very, very nil, and you can
2 enter into many safeguards to protect against it.

3 And the fact that Ms. Boyle will testify that he
4 would find somebody in Canada to help him perform the
5 surgery on his daughter, well, I think he probably can go
6 to jail for 20 years in Canada for doing that, and I would
7 assume that the mother is going to know he did that.

8 So there are a lot of safeguards. The Canadian
9 legal system is pretty developed like our legal system. It
10 gives protections and restraining orders and domestic
11 violence protections and so forth. So that's based on all
12 of these circumstances, I don't believe it's likely, but
13 that's a call that the honorable court is going to make.

14 Q. Now, your conversation with Mr. Aly Saad Aly, was that
15 an in-person conversation?

16 A. On the phone.

17 Q. So you have never met him in person?

18 A. No, I did not.

19 Q. You have never observed his appearance?

20 A. No, I did not.

21 Q. Okay. And it's your understanding that different --
22 there is a cultural component. The different levels of
23 conservativeness dictate different dress among Muslims,
24 correct?

25 A. I don't judge a book by its cover.

1 Q. If Mr. Aly Saad Aly were to meet with you wearing short
2 pants, would that tell you, give you any insight into his
3 religious bent?

4 A. Again, I don't judge a book by its cover. I would need
5 to speak to him, ask him questions. The level of
6 religiosity can vary from one thing to another. I have
7 very devote Muslims in my family, but they deposit their
8 money, and they take interest, and that's prohibited. Some
9 don't miss a prayer, and they fast Ramadan, but they will
10 drink beer during the regular year.

11 I don't know. I would need to sit down with him
12 and talk to him and have intellectual discussions about
13 issues to understand his level of religiosity, not just by
14 looking at him.

15 Q. Okay. You didn't speak to Ms. Aden in preparing your
16 report, did you?

17 A. No, I did not.

18 Q. You didn't speak to Ms. Roundtree in preparing your
19 report, did you?

20 A. No, I did not.

21 Q. And you would agree that FGM is not culturally accepted
22 in North America, right?

23 A. It is not accepted in North America.

24 Q. And it's not legal in Canada or the U. S.?

25 A. That is correct.

1 Q. And it's your understanding that Mr. Aly Saad Aly knows
2 that, right?

3 A. Yes, he does.

4 Q. Okay. And if Mr. Aly Saad Aly had told you that he
5 intended to have his daughter circumcised, that would have
6 changed your opinion and your testimony here today, right?

7 A. Well, if somebody is going to tell me, listen, I'm
8 going to circumcise my daughter, of course I'm going to
9 change my testimony. My position would be -- that the
10 whole question that is before the Court right now, is this
11 guy going to perform this procedure on his daughter or not.

12 If he tells us he is going to perform it, there
13 is no purpose for my report or your report or our
14 testimony.

15 Q. Okay. Mr. Awad, one last question for you. It's a
16 very simple question. You were paid \$2,000 for your report
17 before this Court, right?

18 A. That is correct.

19 Q. Thank you.

20 A. That was a reduced --

21 THE COURT: All right. Any redirect examination?
22 Ms. Berg?

23 MS. BERG: No, Your Honor. Thank you very much,
24 Mr. Awad.

25 THE WITNESS: Thank you very much, Your Honor.

1 THE COURT: Mr. Awad, we're done with you. Thank
2 you very much.

3 THE WITNESS: Thank you very much, Your Honor.
4 Bye bye.

5 **(Witness excused.)**

6 THE COURT: Next is Ms. Aden, is that correct?

7 MR. CARTER: That's correct, Your Honor.

8 THE COURT: Do we have any other witnesses
9 besides her?

10 MR. CARTER: I believe this is it.

11 THE COURT: Is that correct?

12 MS. BERG: We're done.

13 THE COURT: All right. Let's take about a
14 seven-minute break before we hear her.

15 THE CLERK: All rise.

16 **(Recess taken.)**

17

18 **(In open court.)**

19 THE COURT: You may be seated. All right.
20 Let's continue.

21 MR. CARTER: Respondent calls Amal Aden.

22 THE COURT: Very well.

23 **(Witness sworn.)**

24

25 MR. CARTER: Your Honor, before I begin, may I

1 just inquire as to timing?

2 THE COURT: You may.

3 MR. CARTER: I suspect that it probably will take
4 an hour and 45 minutes or so to get through her testimony.

5 THE COURT: Through her direct?

6 MR. CARTER: Mm-hmm.

7 THE COURT: And cross will be how long?

8 MS. BERG: I can't imagine very long.

9 THE COURT: Let's just get started. I have one
10 other hearing which is going to be relatively short this
11 afternoon. So let's just get started, and we will see how
12 far we can get. Hopefully we can finish.

13 MR. CARTER: Okay. Thank you, Your Honor.

14

15 **AMAL ADEN,**

16 after having been first duly sworn, was examined and
17 testified as follows:

18 **DIRECT EXAMINATION**

19 BY MR. CARTER:

20 Q. Good afternoon.

21 A. Hi.

22 Q. Could you please state your name for the record?

23 A. Amal Aden.

24 Q. How old are you, Ms. Aden?

25 A. I'm 33.

1 Q. Where do you work?

2 A. Hennepin County Medical Center.

3 Q. And what do you do there?

4 A. I'm a nurse.

5 Q. How long have you been a nurse?

6 A. I got my Associate Degree in 2005, so about seven
7 years.

8 Q. And where do you live?

9 A. Hennepin -- Anoka County, Columbia Heights.

10 Q. And what kind of home is that?

11 A. Townhouse I purchased back in 2007.

12 Q. And how long have you -- how long have you lived there?

13 A. I lived there from late 2007 to middle of 2009. The
14 mortgage was too much for me, so I had to rent it out. I
15 was living in an apartment from the middle of 2009 until
16 May of 2010 when I moved or relocated to Canada.

17 MR. CARTER: Your Honor, actually in the
18 interests of efficiency, I wonder if it might be best to
19 quickly take a look at the exhibits. As I understand it,
20 the authenticity of everything has been stipulated to, and
21 I believe that prior evidence and testimony has made them
22 all relevant, so I think the foundation is there for
23 everything if we can go through them quickly.

24 THE COURT: Let's go through them as you need to
25 use them, and then if there is any objection, you can raise

1 that at the time. Otherwise we'll assume it's admitted.

2 Okay?

3 MR. CARTER: Okay. Thank you, Your Honor.

4 BY MR. CARTER:

5 Q. Okay. You were just testifying that you lived in the
6 town home until 2009. Do you remember about what month
7 that was?

8 A. March of 2009.

9 Q. And tell the Court again why it is you, you stopped
10 living there?

11 A. I purchased it initially because I was expecting my mom
12 and my siblings, and as I was unable to bring them here in
13 two years. The mortgage was too much for me to pay by
14 myself.

15 Q. And did you want to continue living there?

16 A. Of course, if I could afford keeping it.

17 Q. And how is it that you can now afford to live there?

18 A. I had a chance to refinance it while I was in Canada,
19 so I got a much less interest rate, and it cost me close to
20 1300 mortgage right now. Still a little high, but it's
21 much better than 2500 a month.

22 Q. And you said you rented it out until when,
23 approximately?

24 A. From March of 2009 up to July of this year.

25 Q. Okay. I'm going to pull up on the screen Petitioner's

1 Exhibit 31.

2 (Pause.)

3 THE COURT: All right. We can continue.

4 BY MR. CARTER:

5 Q. Okay. I have Petitioner's Exhibit Number 31 on the
6 screen. Do you see that there?

7 A. I do.

8 Q. And that's the most recent lease that you executed for
9 the town home, correct?

10 A. Yes.

11 Q. That's identifies, who was the tenant?

12 A. Sarah Hassan and her kids.

13 Q. Okay. Now, this is the signature page of that same
14 lease. What's the dates above the signature that is shown
15 there?

16 A. February 26th, 2012.

17 Q. And that's your signature below that?

18 A. Correct.

19 Q. Okay. Thank you.

20 Okay. So you have been back in the town home
21 since July 2012?

22 A. Yes.

23 Q. And who do you live there with?

24 A. My 14-month-old child, Princess.

25 Q. How long have you been in Minnesota?

1 A. I came back to Minnesota April 27th, 2012.

2 Q. And when did you, when did you first come to Minnesota?

3 A. Oh, Minnesota, I came 1999, December.

4 Q. And where are you from originally?

5 A. I was born and raised in Somalia, and I had moved to
6 Egypt for a little over two years before I immigrated to
7 the States in '99.

8 Q. And did you come here with anyone else?

9 A. No. I was by myself.

10 Q. Have you obtained any education in Minnesota?

11 A. Yes. I was out of high school, and I started first
12 year college in Egypt, and when I came here, I didn't know
13 much English, so I did a year and a half of English and
14 then moved in for the requirements for nursing.

15 And I got my Associate Degree in 2005 from
16 Minneapolis Community College and then started working as a
17 nurse at Abbott Northwestern and pursued my Bachelor Degree
18 from Metro State University, and I got that in 2007.

19 Q. Now, there has been testimony that you were previously
20 married, is that correct?

21 A. I was once married before, yes.

22 Q. And what was this person's name?

23 A. Abdi Ali.

24 Q. How did you meet him?

25 A. I met him through family in my visit to my mom in Kenya

1 in 2007.

2 Q. What happened after you met him?

3 A. It was sort of an arranged marriage, so we really
4 didn't know each other very much. We got married at the
5 end of that year. He was Somali born but Canadian
6 citizenship and got a Master Degree from Canada in
7 international law.

8 Our original plan was to reside here in the
9 States, and he came and visited here for a month in
10 December of that year and went back to Africa and decided
11 that he had a better career job in Somalia. He was part of
12 the government at that time, so plans changed for him, and
13 he wanted me to move back to Africa and join him.

14 Q. How did that affect the marriage?

15 A. I did not want to go back there. Actually, I was
16 working on trying to bring my mom and siblings here. So
17 that kind of caused the marriage to end and at the end of
18 2008.

19 Q. How did it end exactly in 2008?

20 A. Petitioner talked about how easy it is to get married
21 in Islam. It takes two people that want to get married and
22 two witnesses, and to dissolve that marriage, it takes also
23 the same two witnesses and the man actually, and the
24 divorced woman doesn't have to be present. And that's what
25 Abdi did.

1 Two of my relatives is who he called on and
2 explained to them that I am not planning to join him and he
3 has no plans to come to North America, therefore I was
4 divorced.

5 Q. And where did he do that?

6 A. In Nairobi, Kenya.

7 Q. And how was that effective in the U. S. and Canada?

8 A. Of course, I needed official document from him.
9 Initially, he did say he will go to court in Kenya and
10 obtain a divorce certificate, but he never did that, and I
11 waited the whole 2009 for that. In early 2010 before I
12 even made any plans to marry the petitioner, I had started
13 divorce papers here in Hennepin County.

14 Q. And eventually you did receive those divorce papers?

15 A. I received in September of the same year, 2010.

16 Q. Now you heard Mr. Aly Saad Aly's testimony that you
17 received, I believe it was, \$10,000 in payment to obtain
18 papers for this Abdi. Is there any truth to that?

19 A. I don't know what is that about. I married this guy
20 who was a Canadian citizen. I did apply for papers for him
21 because he had, as he said, better chances to find a law
22 job in U. S., and that was our initial plan, for him to
23 join me here.

24 And I don't know where the money is coming from
25 or why would I need money for my husband to bring him here.

1 Q. And so your testimony is that you received no payment
2 in return for that marriage?

3 A. No.

4 Q. Okay. So let's, let's talk a little bit now about
5 petitioner. How exactly did you meet him?

6 THE COURT: Before we go on, Mr. Carter, can I
7 clarify?

8 So the answer to the question is that you did not
9 receive \$10,000 from him, is that correct?

10 THE WITNESS: No, I did not.

11 THE COURT: You did not receive. Okay.

12 MR. CARTER: Thank you, Your Honor.

13 BY MR. CARTER:

14 Q. Okay. How did you meet Mr. Aly Saad Aly?

15 A. I met him online dating, Muslim site, actually.

16 Q. And you said you met him on a Muslim site. What kind
17 of Muslim is he?

18 A. He's Sunni and I'm Sunni as well. I'm not sure if
19 that's your question.

20 Q. Is there any other -- is there any more specific type
21 of Muslim that he is, other than Sunni?

22 A. I consider myself being conservative, but I found him
23 being more conservative than I am.

24 Q. And how so?

25 A. I cover my body, and that's what I believe Islam

1 requires of me as a woman. And in addition to that, I
2 found out when I moved to him that he wanted me to cover my
3 face, like a minority of Muslims do such as in Saudi
4 Arabia. I also found him appearance-wise when you first
5 look at him, he looks very conservative.

6 Big beard for a young person like him. Wears his
7 pants short as a sign of very religious man in Islam. He
8 doesn't shake hands with a woman. He doesn't have credit
9 cards because it bears interest. He blamed me a lot for
10 buying a house in Minnesota because that is an interest,
11 and he considered that being a sin.

12 He also was surprised that I took student loans
13 to go to school because he doesn't believe in that as well.
14 So you could see how different we are in these things and
15 how I considered myself a conservative, but I found him to
16 be a little more than I am.

17 Q. Is he a Salafi Muslim?

18 A. He was a regular guy early in Florida or in Louisiana
19 when he came to this country, and in Florida he was
20 introduced to more extreme Islam through Salafi group of
21 friends of his in Florida mosque, and that's when he grew
22 his beard and started being much more conservative.

23 He defined himself as a Salafi, the closest
24 people to follow Islam at the time of Mohamed.

25 Q. How tall is he?

1 A. He's about six, two.

2 Q. And how much does he weigh?

3 A. Close to 200, maybe 190, about 200.

4 Q. And how tall are you?

5 A. I'm five, four.

6 Q. How much do you weigh?

7 A. 145.

8 Q. Okay. So after you met Mr. Aly on an online dating web
9 site, what happened after that?

10 A. I went to visit in February of 2010 to where he was
11 living, Kitchener, Waterloo, and we met in person in a
12 three-day weekend.

13 Q. And then what happened after that visit?

14 A. I -- he was pressuring me so much at the time to get
15 married while I was there, and I needed time to come back
16 home and think about it. So that's what I did, and I
17 believe March, it was probably April when we got married
18 Islamically.

19 Q. You said it was probably April. Was it May?

20 A. It was either end of April, beginning -- I relocated to
21 Canada in mid-May, but I was already married to him
22 Islamically, so it probably was in April.

23 Q. Were you married civilly eventually?

24 A. July of 2011.

25 Q. Now, this story about meeting him online, that's not

1 what has been your answer that was originally filed in this
2 case, is it?

3 A. No, it was not.

4 Q. And what is it that you said in the original answer?

5 A. I had made up this story that I told my mom back in
6 2010 that I met him in a friend's wedding in Toronto, and
7 back then, I was very ashamed from admitting to my mom that
8 I'm leaving my work and my country and relocating to
9 another country for someone that I met online, and in my
10 culture, it's not many girls do that.

11 Q. And why did you continue on with that story?

12 A. For a couple of things. I did not see that has
13 anything to do with the case we're in. I didn't see it
14 relevant, and the other thing was, my family that I
15 initially made up the story for them, they will be hearing
16 about this, and I was still concerned this will get to
17 them.

18 Q. Now, there are a couple of other corrections made in
19 your amended answer. Could you just explain briefly how
20 those errors came to be in the original?

21 A. I believe these were misunderstanding between me and my
22 lawyers. I had stated to them I was aware of one marriage.
23 He told me he was divorced once before we got married, and
24 so that makes that I knew about one wife or one of the
25 three.

1 And the other correction was, in July of 2010,
2 our argument did not start whether I have the child in
3 Canada. I had already decided to have the child in the
4 States, and that was not what started the argument.

5 Q. Is there anything else in the amended answer that's not
6 correct?

7 A. No. I went through this document close to 50 times,
8 and I made the corrections that needed to be made before I
9 appear before this Court.

10 Q. Now, when you speak with Mr. Aly, what language do you
11 speak in?

12 A. Arabic.

13 Q. And so you heard Dalia Motaleb's testimony earlier
14 today that she overheard a conversation between you and
15 Mr. Aly in English. You heard that testimony, correct?

16 A. I did.

17 Q. Is there any possible way that you had a conversation
18 with him in English?

19 A. We speak both languages, so English will come in and
20 out of the conversation, but 100, 99 percent of our
21 conversation is in Arabic.

22 Q. What was the event that precipitated you leaving Canada
23 and coming back home to Minnesota?

24 A. I have been through a lot of abuse from this man, and I
25 stayed in this marriage especially after I got pregnant to

1 provide a better life for my child. I grew up with a
2 single mother. I knew how hard that is, so sticking with
3 him in my mind back then it was providing the complete
4 family, the father, the mother, the siblings for my child.

5 And I was going to put up with more abuse if she
6 was going to have a better life, but that abuse actually
7 extended to her.

8 Q. And when, what was the -- when did that happen or when
9 was the last time that happened?

10 A. April 25th, I had been arguing with him, and I really,
11 even after the baby came, I had some distraction from him.
12 I was busy with her and my work, and I was really hoping
13 that he will come into an understanding that our marriage
14 is over and that I -- we need to find out a way to separate
15 and he still has access to his child.

16 And the conversation, like it does always with
17 him, turned violent, and he started screaming and yelling.
18 He had just came back home from school, and I was feeding
19 the child in the living room, and as soon as, as soon as he
20 got loud, I took the child to the bedroom and tried to get
21 her ready for bed.

22 He comes after me, and he is pacing, and he is
23 yelling and screaming. I come back out --

24 Q. What was he, what was he yelling and screaming?

25 A. That I will not be leaving with his child, that if I

1 leave, then I will be destroyed. I'm not going to be any
2 good for anything, that he will break me to pieces, if I
3 want to translate the exact words he used, and that I was
4 going to regret.

5 Q. So you were in the bedroom, and you brought the baby
6 back out. What happens after that?

7 A. I try to go back and finish feeding her, but he comes
8 after me, grabs me from the back. Again, he starts
9 slapping me in the face, slapping me in the face, and after
10 he -- I didn't see that coming, so I was shocked.

11 And I started right away screaming at him that
12 I'm holding the baby and get away from me and her, and the
13 next thing I know is, he grabs her from me and turns
14 around, and she goes in the corner of the room is where he
15 threw her.

16 Q. And what did you do?

17 A. I was just running after the child, trying to get to
18 her before she hits her head on the wall.

19 Q. Did you see the baby land?

20 A. Yes. She landed on her back.

21 Q. And what did she do when she landed?

22 A. I grabbed her, and I right away started looking at her
23 back, and I come from a neuro ICU background as a nurse,
24 and I started looking at her pupils, if she was tracking
25 me, and I started moving her extremities and up and down,

1 and she was screaming. She was hysterically crying, and I
2 just took and ran to the bedroom and started looking,
3 checking her whole body.

4 And I -- it took me close to an hour to really
5 get her calm again.

6 Q. You said you checked her out. You examined her
7 immediately after you got to her. Did you do anything else
8 over the --

9 A. I did not sleep that night. I was checking on her
10 hourly. That's what we do as neuro nurses. Usually we
11 have to check patients that had trauma to their head hourly
12 of or even more frequent.

13 Q. And what would you do when you checked her?

14 A. I was making sure she was breathing and she had no
15 bruises on her head, and as in any child, she would turn
16 and toss in her bed, and I made sure she was just doing the
17 normal things she would do.

18 Q. And you didn't see any injuries in these checks?

19 A. No. Thankfully, no.

20 Q. Okay. You said that the baby started screaming and
21 crying. You brought her back to the bedroom. What did you
22 do then?

23 A. I came out again, grabbed a bottle of milk for her. I
24 took her back to the room and helped her sleep.

25 Q. Were you able to calm her down?

1 A. Maybe after 50 minutes, close to an hour.

2 Q. And what happened after that?

3 A. She went to bed. I came out.

4 Q. What was the petitioner doing during the time you were
5 trying to calm her down in the bedroom?

6 A. Initially, he was not talking, but he was pacing
7 outside of the bedroom like a crazy person, but he wasn't
8 saying anything, and he eventually sat down and started
9 watching something on the computer.

10 Q. And what happened after you came out of the bedroom?

11 A. I had a big mess in the kitchen. He was expecting
12 about six or seven friends of him coming for dinner the
13 next day, so I was preparing food. I just came out of the
14 room and started putting whatever I cooked in the fridge
15 and wanted to go back to the room and stay there.

16 Q. And what happened?

17 A. He calls me that he wants dinner ready. So I grabbed
18 something for him and set it in front of him in the living
19 room.

20 Q. And then what did you do?

21 A. I was trying to leave, and then he grabs me from my
22 neck, the shirt, and he asks me to sit down and have dinner
23 with him.

24 Q. And did you?

25 A. I sat down there, but I wasn't able to eat.

1 Q. And what happened after dinner?

2 A. He got up and went to bed.

3 Q. And what did you do?

4 A. I started packing the baby diaper bag and whatever
5 bottles I could, and I remember I packed about three or
6 four bags, and next to our apartment was the storage room
7 for the building. I was able to take these bags that I
8 packed and store them in the storage room.

9 Q. And were you afraid that he might see you doing that?

10 A. I was terrified if he wakes up.

11 Q. So what happened after you got the, got the bags to the
12 storage room?

13 A. I was up most of the night, all the night actually. I
14 did not sleep. I was trying to go in the room and check on
15 the baby and come out, and he woke up about 6:00 a.m.

16 Q. And what happened when he woke up?

17 A. He came out and told me to make sure everything was
18 ready for his friends before I go.

19 Q. And what happened next?

20 A. He got into the bathroom, and I was able to pack some
21 of the baby clothes with a bag of my own belongings that
22 always was packed in the bedroom, and I was able to sneak
23 that bag out to the hallway. I wasn't able to take it to
24 the storage room, but I was able to put it in the hallway
25 of the building.

1 Q. And then what happened after that?

2 A. He went back to sleep, and I kept packing and getting
3 ready.

4 Q. And what happened next?

5 A. He woke up about 9:00 a.m. with the baby when the baby
6 woke up, and I fed her breakfast, and we had a doctor
7 appointment in Hamilton, the city that was about an hour
8 away, and I was getting her ready to go there.

9 Q. And did you end up going there?

10 A. Yes. As I was leaving, he was sitting on the couch,
11 turning on the Acer computer that he claims that I took,
12 and as I was leaving, he said don't be late.

13 Q. And were you able to get the bags that you had stored
14 in the storage room?

15 A. I was. I had to move my car to come to the building
16 entrance that was closer to the apartment, and I had used a
17 couple bags to hold doors for me, and I loaded the car, and
18 I drove off to Hamilton, and we finished our appointment
19 there, and then I drove to Buffalo, New York.

20 Q. And did a doctor examine Princess?

21 A. Yes.

22 Q. And luckily not injured?

23 A. Thankfully no.

24 Q. What did you do after the doctor's appointment?

25 A. I drove to Buffalo, New York.

1 Q. And where did you go after Buffalo?

2 A. I had my last paycheck coming there, so I pulled that
3 money out, and I drove home here to Minnesota.

4 Q. Did you have any communication with petitioner during
5 that drive?

6 A. I had a pay-as-you-go phone that he had. He called me
7 about 3:00 p.m., and where are you, why are you not home
8 yet, and we were just finishing up at the hospital, and I
9 told him we're not done yet at the hospital.

10 Next time he called me, it was past midnight, and
11 I was driving, I believe, Ohio highway, and I told him that
12 I left for Minnesota and I was not coming back.

13 Q. And what did he say?

14 A. In an angry voice, he said you need to come back now,
15 and I repeated myself and told him, no, I'm not coming
16 back. And after several calls, he said if you take the
17 child and leave, then I will never want to hear from you or
18 her the rest of your life.

19 Q. And when did you arrive in Minnesota?

20 A. 5:00 or 6:00 p.m. on the 27th.

21 MR. CARTER: Your Honor, I'm turning to Exhibit
22 Number, Respondent's Exhibit Number 28. It's a series of
23 bank account records from Ms. Aden's Buffalo bank account.
24 I offer it in evidence.

25 THE COURT: Any objection?

1 MS. BERG: What was the number again?

2 THE COURT: 28.

3 MR. CARTER: 28.

4 MS. BERG: I'm sorry. Are you waiting for me?

5 THE COURT: Yeah.

6 MS. BERG: I'm sorry. No objection.

7 THE COURT: 28 is admitted.

8 BY MR. CARTER:

9 Q. You recognize this document, don't you, Ms. Aden?

10 A. Bank of America statement, my account.

11 Q. And do you see that -- I'm not sure how the computer
12 got -- sorry.

13 The callout there on the screen is the
14 highlighted transaction there. It has a date posted of
15 April 30th, isn't that right?

16 A. Yes.

17 Q. And it shows a purchase at Wal-Mart's in Woodbury,
18 isn't that correct?

19 A. Correct. That was on the 29th but posted to my account
20 on the 30th.

21 Q. And you remember going to Wal-Mart on that day?

22 A. Yes, on the 29th.

23 Q. After, after you got back into -- after you returned to
24 Minnesota, did you contact petitioner at all?

25 A. I was tired on the 27th. I sent him an instant message

1 on the 28th. I told him I was in Minnesota in my friend's
2 mother's home in Woodbury and that Princess was doing fine.

3 Q. And you heard petitioner's testimony that you did not
4 send him an instant message on the 28th, isn't that
5 correct?

6 A. Yes.

7 Q. And you've reviewed the instant chat messages that
8 petitioner has produced?

9 A. Yes.

10 Q. And there is no -- there is an instant message chat
11 from April 27th, isn't that correct?

12 A. Yes.

13 Q. But there is no message chat from April 28th?

14 A. No. I hoped he would include that in because it would
15 show my message to him.

16 Q. Has petitioner ever threatened to kill you?

17 MS. BERG: Objection. Leading.

18 THE COURT: Overruled. Go ahead.

19 THE WITNESS: I haven't heard from him for the
20 whole month of May. First of June is when he found my new
21 phone number and called me. He called also my mom in
22 Kenya. He called two or three friends of mine here in
23 Minnesota.

24 In that first call, was very nice, please come
25 back. I will fix this relationship. I will do whatever

1 you want. I will do whatever it takes for this marriage to
2 work, and I told him that I have left several times before,
3 but this time I have left for good and that I had no
4 objections for him to see his daughter, but for me and him,
5 it was over.

6 He was nice for two days, and then it was the 4th
7 and the 5th when he turned aggressive. I had no idea that
8 he had reported me missing or the baby or my baby missing
9 in Canada yet, but he had. His last phone call to me was,
10 you took my baby. This is happening to me for the second
11 time losing a daughter, but this time I will kill you.

12 BY MR. CARTER:

13 Q. And did you do anything in response to that threat?

14 A. I knew he knew my address, and because I had told him,
15 I mean I was at my friend's mom's home, so I went to Anoka
16 County, and I obtained an order of protection against him.

17 MR. CARTER: Your Honor, I am holding
18 Respondent's Exhibit Number 79. If you have the witness
19 binder for Amal Aden, it's in the front pocket of that.
20 This is a copy of the most recent petition and order in the
21 OFP matter pending in Anoka County. It was issued on
22 November 8th. I offer it in evidence.

23 THE COURT: Any objection?

24 MS. BERG: Just a minute. No objection.

25 THE COURT: 79 is admitted.

1 BY MR. CARTER:

2 Q. Ms. Aden, have you been able to serve Mr. Aly this OFP
3 petition?

4 A. I was not. Anoka County Sheriff tried, office tried
5 several times. After several times of trying, I got from
6 the sheriff office the contact of police he was talking
7 with in Ontario. I talked with her, and she -- I don't
8 remember her name, but she said this address exists, but
9 this apartment does not exist.

10 So I went back to Anoka County Sheriff's Office,
11 and they told me later, maybe two months later, that the
12 police had tried, but he would not let them into the
13 building. It's a secured building, and someone has to buzz
14 you in.

15 Q. And in fact, that's what it says in this order here,
16 that he failed to accept service, isn't that right?

17 A. Correct.

18 Q. The April 25th, 2012, assault wasn't the only time you
19 and Princess have suffered physical abuse from petitioner,
20 is it?

21 A. No. There were several other incidents.

22 Q. And this abuse had, did it have both a physical and
23 psychological component?

24 A. Physical, psychological, emotional.

25 Q. I'm going to go back one -- for one brief moment and

1 talk about the OFP in Anoka County. In fact, you attempted
2 to serve this OFP on Mr. Aly through his counsel in this
3 case, isn't that correct?

4 A. Correct. We -- I have talked to actually if his
5 counsel was able to serve him, and you informed me that she
6 said she was not representing him in this case; therefore
7 she was not going to deliver.

8 Q. All right. I'm sorry for the interruption. I want to
9 go back now to the abuse. What were some of the common
10 sources of conflict that would begin these arguments that
11 led to his abuse?

12 A. Our main conflict started right after I moved there for
13 about two months. The picture I had from him was a man
14 divorced one time from Firyuza, wife number three, and when
15 I relocated there two months later, he told me he was
16 married to Nora Roundtree and that he had a daughter with
17 her that he never saw before.

18 He also told me about Nora, that her crazy sister
19 had called the police on him, and he's the one who told me
20 that she had an OFP against him. Alleged abuse is what he
21 said. That's why he was unable to go back and see his
22 daughter.

23 He also said that he was married a total of three
24 times in the U. S. and that he had a current wife in Egypt,
25 an 18-year-old.

1 Q. And in fact, it's this wife that petitioner's mother
2 testified you had called and spoken to her about, correct?

3 A. Must be. I have heard of one Egyptian wife in Egypt.

4 Q. And she says, you heard her testimony, that you were
5 angry and still believed that this woman was married to
6 Mr. Aly, correct?

7 A. Yes.

8 Q. And Mr. Aly never showed you a divorce certificate?

9 A. Never from this Egyptian woman. To him she was the
10 dream wife. 18-year-old. Just went to middle school. I
11 don't even think if she finished high school because to him
12 educated woman is a challenge for the man. She was wearing
13 a head cover that I refused to wear. She was from a
14 wealthy Saudi family. Her father had other four wives, so
15 polygamy was accepted. She was not refusing for him to
16 seek other woman.

17 Basically, she was the perfect package for him or
18 the perfect woman, so he was always proud to have a wife
19 like that.

20 Q. So I think from the testimony that is already on the
21 record, we have a good understanding of Mr. Aly's approach
22 toward marriage. Could you please describe yours and what
23 you expect with your marriage to Mr. Aly?

24 A. My expectation was commitment to a marriage. Yes,
25 Islam does allow men to have more than one woman, but it's

1 under very strict circumstances. This man was a student,
2 and to have multiple wives, you have to be able to provide
3 for all of them, and had he been honest about his views on
4 polygamy, I would not have been engaged in this
5 relationship.

6 I was divorced once, and I was honest with him
7 about that, and he never told. He only told me about one
8 divorce, and he never told me about this Egyptian wife. To
9 him I was a temporary wife who didn't really require a lot
10 of money from him.

11 In our culture, a woman require a lot of dowry,
12 and I was very understanding of his situation as a student
13 that has no money, so I don't require much. My dowry from
14 him was about \$2,000 that he never paid to me. So after
15 living with this guy for over two years, I found out that I
16 was the perfect person for him now.

17 Get through his education, and he has someone to
18 sleep with at the end of the night, and just the way he
19 divorced four others before me or three others before me,
20 he would just divorce and walk away. So we came in this
21 relationship with really two different views.

22 I'm as a woman in my religion is allowed to marry
23 to one man, so I was into this marriage committed 100
24 percent, but that's not what I found in this person.

25 Q. So aside from the conflict over his previous marriages

1 and his approach to marriage, were there any other triggers
2 of his violence?

3 A. Whenever I would mention I want to leave, that's when
4 he gets wild, like a wild animal that you cannot stop and
5 cannot expect or cannot predict what to expect from him
6 next.

7 Q. How many times has he assaulted you?

8 A. Physically? More than seven times.

9 Q. So let's talk about another incident of, of physical
10 assault. Do you remember the day February 27th, 2011?

11 A. Yes, I do.

12 Q. And did Mr. Aly assault you on that day?

13 A. Yes, he did.

14 Q. And how? How did this, how did the -- how did it
15 begin?

16 A. Going back a little bit in January of the same year,
17 he -- I wanted to leave again, and really, I did not see
18 any changes in this guy. I told him I want to leave, and
19 he picked up the phone, actually picked up the Internet
20 first, and he said, you're going to abort before you go,
21 then.

22 I was about two months' pregnant back then. I
23 actually did call two clinics in Toronto. I talked with
24 the first one, and I told them I want an abortion, and they
25 have to do an intake form. And the questions were, do you

1 have another condition, and I had a deep vein thrombosis,
2 which is a clot in the leg, from a fall of December of
3 2010, so I was on blood thinner.

4 So I told them I'm on blood thinner for that
5 reason, and they excluded me from an abortion. They said,
6 no, we're not going to do anything with you. I picked up
7 the phone and called a second clinic, and the middle of
8 that talk -- I was not going to tell them this time that I
9 had a clot and I was on blood thinners.

10 In the middle of the conversation, he took the
11 phone and hung up. So I left his apartment to my cousin
12 Asha's house, and I was at her place for about two weeks.
13 I was really afraid he would physically try to hurt me is
14 why I left him, and I had just come back to his apartment
15 in February when all this is happening.

16 And it started over a -- I was very tired, and I
17 had a bad cold that day, and it was about eleven or twelve.
18 He comes storming in the room, and he says why is my lunch
19 not ready, and I just said, go on, prepare it yourself.
20 You can do it, and he gets verbally abusive.

21 A lady was staying with us that I had asked him
22 to bail out a week or a few days prior, so she came out,
23 and I told her, just go back to your room and just to stay
24 there, don't come out.

25 Q. And what was this lady's name?

1 A. Fowzia.

2 Q. And what happened after that?

3 A. He kept calling me names and insulting me, and I had
4 just come back to his apartment, and I was sick of it all,
5 and I said, I'm sorry for the word, but I said just to heck
6 with you.

7 I started packing. I wanted to just get away
8 from him because when he gets mad, he is just a 200 pound
9 man that can just crush me if he really wanted. I started
10 packing, and that's when he grabs me and throws me first on
11 the bed, and like he usually does, he goes for my head, and
12 it was his fist that hit my head several times.

13 And I remember getting dizzy, and I remember
14 feeling all his weight on my stomach, and I remember trying
15 to scream. He gets off of me. I run for the door. He
16 grabs me for my shoulders, and that's when he kneed me in
17 the stomach. I knew I was not going to go for the door, so
18 I run to the, I run to the window screaming.

19 He catches up with me. Closes the window. Grabs
20 me from my shoulders again. Here I go into the other
21 corner.

22 Q. And what happened after that?

23 A. This lady Fowzia came out, and as she was trying to
24 stop him. I was able to run and lock myself in the
25 bathroom. I was there for about ten minutes, and I

1 remember that I vomited, and she knocks on the door, and
2 she said, come out. He has called your cousin Asha, and
3 she is on her way to get you out of here.

4 Q. During this -- during that attack, did you try to call
5 for help, aside from going to the windows?

6 A. He had a habit that as soon as we start arguing about
7 anything that he will grab all the phones. We had two
8 headsets, and he grabbed those, and he also grabbed from
9 this Fowzia lady her cell phone.

10 So I was unable to call, and she was not able to
11 call. I have asked her from the bathroom to call 911, and
12 she said he has her cell phone.

13 Q. And so after Fowzia came and told you that he had
14 called your cousin, what happened next?

15 A. I think I spent there another five minutes. I could
16 not hear him. He must be in the living room or in the
17 kitchen, which was a little distance from the bathroom, and
18 two rooms were between where he was and I was. I came out.

19 I had just pajamas on me, and I started putting
20 clothes on, and that's when I heard him talking on the
21 phone with the police. I couldn't quite hear what he said,
22 but he had called 911.

23 Q. And then what happened after he called 911?

24 A. Two officers came within probably three or four
25 minutes. A female officer came to me in the bedroom, and

1 she has said what's going on, your husband has called us
2 and said that you have a knife and you're threatening to
3 hurt yourself and your baby, and he wanted us here to
4 protect you.

5 And a male officer was in the kitchen talking
6 with him.

7 Q. And what happened after that?

8 A. The female officer started examining my arms, and I had
9 bruises and two middle fingers in my left hand were
10 swollen, and she was also concerned because I was still
11 wearing an orthopedic boot. My broken ankle hasn't healed
12 well yet.

13 And two officers switched, and the male officer
14 was talking with me, and he said, well, you're saying that
15 you're hurt, but your husband also says that you pulled a
16 knife on him.

17 And I said I had no access to knife, and that's
18 not what the female officer told me he called about. He
19 called about protecting me, not protecting him.

20 Q. And did the police officers know you were undocumented
21 in Canada?

22 A. He did not, but Mohamed started telling him that I was
23 staying illegally in Canada, that I -- I wasn't coming and
24 going at the time. I didn't fully start working, but he
25 told them that I was overstayed in Canada.

1 Q. Do you have any idea where Mohamed got the idea to
2 accuse you of pulling a knife on him?

3 A. The lady that he bailed out was accused of pulling a
4 knife at her husband. We were talking about this over
5 dinner the night before, and this woman was about five, one
6 and weighs maybe 110 pounds, and her husband was as the
7 size of Mohamed.

8 So we were just laughing about it the night
9 before how even the size of this woman and the size of the
10 man she was dealing with, how he would accuse her of such a
11 thing.

12 Q. What, what, what happened after you talked to the
13 police officers?

14 A. Prior to that, he was holding onto my passport, and he
15 pulled it out and gave it to me, and I had told him I just
16 want to be out of this place. I finished packing my bags
17 with the help of my cousin, and I told him at the time that
18 I was having cramps and I needed to go to the hospital.

19 Officer Reitzel didn't really get back to me. He
20 continued taking me, telling me to pack what I need to pack
21 if I don't want coming back to this place, so we finished
22 packing and got to the car, and my cousin drove me to the
23 hospital.

24 Q. And were you examined at the hospital?

25 A. Yes, I was examined by the ER doctor and also a nurse

1 and a social worker from domestic violence team.

2 MR. CARTER: Your Honor, this is Respondent's
3 Exhibit TX Number 23. It is a series of medical records
4 from the visit to St. Mary's Hospital. I offer it in
5 evidence.

6 THE COURT: Any objection?

7 MS. BERG: No objection.

8 THE COURT: 23 is admitted.

9 BY MR. CARTER:

10 Q. This is page 21 of that exhibit, RTX 023-021. Do you
11 recognize this page of the report?

12 A. Report from St. Mary's Hospital, yes.

13 Q. I'm highlighting a drawing of a right hand, and there
14 are five circles on the wrist just below that hand that are
15 indicated as being bruises. What are those?

16 A. Those are Mohamed's fingers that left bruises on me. I
17 don't bruise that easily. I'm actually surprised that
18 these showed up there.

19 Q. And I've highlighted now the drawing of the left hand.
20 Is there a mark just below the hand on the wrist there?

21 A. That's another bruise.

22 Q. And the two fingers on that hand, what is shown on
23 those two fingers?

24 A. They were swollen and painful.

25 Q. And in fact, the report indicates that those fingers

1 are swollen, isn't that correct?

2 A. Yes.

3 Q. Now, after the assault, did you have any abdominal
4 pain?

5 A. I did mention to the ER doctor that I was having
6 cramps, abdominal cramps.

7 Q. And this is another portion of the report. This is
8 page 14, and the section there that I've called out
9 indicates, can you just read it there I guess real quick,
10 please?

11 A. Any effect of --

12 Q. You can just read the highlighted portion, please.

13 A. She was being or she is having an abdominal pain.

14 Q. This is page 022 of the same exhibit, and it shows a
15 drawing of a female figure in profile from the left side?

16 A. Yes.

17 Q. And what does the drawing show on the upper left arm
18 there?

19 A. Irregular shaped blue bruise four by three centimeters.

20 Q. I'm sorry. You said those marks were bruises, correct?

21 A. Yes.

22 Q. After you finished your visit at the hospital, what did
23 you do?

24 A. After I met with the ER doctor, I had told him that
25 these two fingers hurt, and he wanted to x-ray them, and I

1 told him I didn't really want to subject myself to x-ray
2 being three months' pregnant, and he still thought that I
3 should x-ray them in case they are broken, then they need
4 to do something about it.

5 So I ended up being x-rayed, and he did listen to
6 the fetal heart rate and assured me that I -- the baby was
7 still having a heartbeat.

8 Q. This is page 24, excuse me, of Exhibit 23, and you just
9 described how you were concerned about having your fingers
10 x-rayed and the doctor saw fit to go ahead and have those
11 x-rays done, and this called out portion of the report is
12 consistent with that, isn't that correct?

13 A. Initially I did tell him and the social worker that I
14 did not want an x-ray, but the recommendation was get
15 x-rayed, and I did go ahead and agree with that.

16 MR. CARTER: Your Honor, I have what's marked as
17 Respondent's Exhibit 25. It was -- they are records from
18 the Domestic Violence Treatment Center in Waterloo. I
19 offer them in evidence.

20 THE COURT: Any objection?

21 MS. BERG: Nope.

22 THE COURT: 25 is admitted. Go ahead.

23 BY MR. CARTER:

24 Q. Did you have the -- were you checked out for your
25 injuries at any other point in time after the visit to the

1 hospital?

2 A. No. I haven't went back to the hospital, but I have
3 met with Ms. Rimmer, who is from social work from the
4 Waterloo regional sexual and domestic assault team. I have
5 met with her two more times in her office.

6 MR. CARTER: Your Honor, I also have -- let me
7 back up.

8 BY MR. CARTER:

9 Q. And in fact, this exhibit that's on your screen now,
10 Number 25, are notes from your visits with Ms. Rimmer,
11 isn't that correct?

12 A. Yes, I do see her signature at the bottom.

13 MR. CARTER: Your Honor, I also have Respondent's
14 Exhibit 24. It's a series of photographs of the injuries
15 from the February 27th events. I offer it in evidence.

16 MS. BERG: No objection.

17 THE COURT: 24 is admitted.

18 BY MR. CARTER:

19 Q. Okay. So after you were finished with the hospital,
20 where did you go?

21 A. I went to my cousin's house, Asha.

22 Q. And about how long did you stay there?

23 A. Over a month.

24 Q. I want to turn to another incidence of abuse in July of
25 2011. Do you remember being assaulted by petitioner?

1 A. Yes, I was --

2 MS. BERG: I'm sorry. What was the date?

3 MR. CARTER: July of 2011.

4 BY MR. CARTER:

5 Q. And what happened?

6 A. I was nine months pregnant. I received an e-mail from
7 a lady called Lala Fowzia. She identified herself as being
8 a Moroccan in Montreal, Canada, and she said Mohamed had
9 went to Montreal and married her in March of that year. At
10 the time she said she did not know that he was married or
11 he was expecting a child.

12 And she had found that out now, and she was
13 seeking my help to get a divorce from him.

14 Q. And you said you were -- she said she had met him in
15 March of that year. That would be what year exactly?

16 A. 2011.

17 Q. Where were you in March of that year?

18 A. I was staying with Asha. I was still in Kitchener.

19 Q. Okay. So what happened after you got the e-mails?

20 A. It shouldn't be a surprise to me knowing this person at
21 the time or by then. I, like I did many times, I packed
22 what I can, and I wanted to leave him, and my plan was to
23 deliver in Buffalo. And I just said, I'm just going to go,
24 and I can only drive two hours. I will just go and stay in
25 Buffalo.

1 We argued, and thankfully this time he did not
2 hit me in the stomach, but he hit me in my head several
3 times.

4 Q. Next I want to talk about what happened in the fall of
5 2010, September, end of September, early October. Were you
6 assaulted by petitioner then?

7 A. We had been just married for a few months, and it's --
8 when I found out he was still married and he had this long
9 list of women in his life, and I was not pregnant yet. I
10 bought a one-way airline ticket to Minnesota, and he came
11 home. I was using my Toshiba computer, and he did what he
12 always does when he comes home at night.

13 He goes and checks my e-mails, so he found this
14 ticket, and he got angry. And I told him we're just in the
15 beginning of this, and I will leave, and each one of us,
16 we're young and can have their own life. And he got angry,
17 slapped me in the face several times, grabbed my laptop,
18 smashed it on the floor.

19 I had an i-Phone. He grabbed my i-Phone, put it
20 under the sink in the kitchen and put water on it. I was
21 ready, so I just went inside and grabbed the bags. He
22 tried to prevent me from leaving, but he knew I was, I was
23 going. So he actually, when he said she went to Toronto,
24 he took me himself and drove me to Toronto International
25 Airport.

1 Q. Did he assault you during that argument?

2 A. He did slap me in the face several times.

3 Q. And did you end up going back home to Minnesota?

4 A. Yes. I was here in Minnesota for about three or four
5 days.

6 Q. Why did you go back?

7 A. Stupid. I received an e-mail from him three days after
8 I got here saying how devastated he was and that his father
9 passed away.

10 Q. And so that convinced you to go back?

11 A. I had just lost my father in 2009, so I had, I felt
12 sorry for him, and I went back.

13 Q. Was his father dead?

14 A. No. As soon as I went back there, I found out that he
15 lied about it. In fact, he said his brother Saad has sent
16 him an e-mail. His father is diabetic and probably had a
17 diabetic coma and that his brother wanted him to go back to
18 Egypt to see his father.

19 I couldn't believe that because this man was not
20 that connected to his family. He's not someone that's
21 there visiting them every year, and it's 2010, and as far
22 as my knowledge, he was in Egypt in 2009, so I don't know
23 how his brother would want him to come and see his father.
24 It's just a lie he made up to cover up the first lie.

25 Q. Why didn't you leave Mr. Aly sooner?

1 A. I left him that time, and I should not have gone back,
2 and unfortunately I got pregnant right after I got back,
3 and maybe I stated this earlier. I wanted a better life
4 for Princess than what I had, and until he assaulted her
5 physically earlier this year, I was still willing to endure
6 more from this guy to have a better life for my baby.

7 Q. Would you fear for Princess's safety if she were in his
8 custody?

9 A. I would. I was terrified the first time I went back to
10 work. She was two months old, and he has no patience with
11 kids. He would get angry and frustrated very easily with
12 her. One incident, we were at bed and breakfast place at
13 the Canadian border, and I woke at 2:00 a.m. and my baby
14 was crying. And I just ask him, give me the baby, I will
15 be able to help her sleep.

16 And he said no. Go back to sleep. You have to
17 work in the morning. Go back to sleep, and I a couple
18 times told him, just give me the baby. I will be able to
19 help her go back to sleep, and next thing I know is, he has
20 got the baby this way (indicating), and he just threw her
21 at me.

22 That's how impatient he is with her, and the fact
23 that he in a moment of anger with me, he took her from my
24 hands and just, he didn't even look where he was throwing
25 her to, doing that.

1 Q. Has he made any direct threats against Princess?

2 A. He did. Before she was born, he had admiration for
3 circumcising a woman. He had pulled this article talking
4 about why circumcision is good for a woman, especially in
5 African countries where it's warm because they reach
6 puberty earlier and become sexual earlier than other girls,
7 and so it was a way to suppress down their sexuality.

8 Q. And he spoke favorably of this article's theory?

9 A. He did.

10 Q. What else has he said specifically about female genital
11 mutilation?

12 A. After he started taking care of Princess, I was a
13 little shocked with this, how educated he is and how long
14 he has lived in North America. He stated how shameful he
15 was to have a daughter because in the Arabic culture,
16 daughters could bring home a pregnancy outside the
17 marriage, and that's a shame.

18 And a lot of girls and women are killed in Middle
19 East yearly for honor killing, so he would be worrying
20 about these two daughters he has until they are married and
21 he is sure they are with one man.

22 Q. Has he ever spoken about any specific plan to have her
23 circumcised?

24 A. First time he said, why don't we take her to your mom
25 in Kenya to circumcise her, and I was in tears because I --

1 at seven years old, they had me go through this, which is
2 an inhumane thing. It's mutilation, and it's just cutting
3 part of your body, and I told him how inhumane was this
4 procedure and how dare he would think about it.

5 And he said, well, if you're not going to have
6 your mother do it, then he had plan to go to the pilgrimage
7 this year in Mecca, and he said on way back, I will stop by
8 Egypt and have my mom do it, then.

9 Q. Did he repeat these plans to anyone else?

10 A. I always heard him talking with his mom on the phone
11 about how he wants his daughter to be circumcised, and
12 really having these few months away from him, I'm just
13 thinking, he's trying to do this to protect his daughter
14 from men like him, men that see marriage as their way to
15 sleep with woman and just move on to the next one.

16 I guess he was afraid what he have done to other
17 women would be haunted by, in his daughter.

18 Q. You heard Mr. Aly's testimony that it was actually you
19 who wanted to have Princess circumcised. Is that, is there
20 any truth to that?

21 A. I am a victim of that procedure, so I would not dare to
22 do that to my little one. I had, and I still haven't
23 forgiven my mother. She had done this to my little sister
24 after I immigrated to the states. She was four years old,
25 and I repeatedly told my mom not to do that to Fatima, but

1 she went ahead and did it to my sister. I'm sorry.

2 THE COURT: We have been going for a while.

3 Let's take a five-minute break.

4 THE CLERK: All rise.

5 (Recess taken.)

6

7 (In open court.)

8 THE COURT: You may be seated. Okay.

9 You may continue, Mr. Carter.

10 MR. CARTER: Thank you, Your Honor.

11 BY MR. CARTER:

12 Q. Ms. Aden, you were talking about female genital
13 mutilation. You've testified that petitioner has stated
14 that he wanted to have Princess undergo the procedure. Do
15 you think he will go through with it?

16 MS. BERG: Objection. Calls for speculation.

17 THE COURT: Overruled. Go ahead.

18 THE WITNESS: I believe so. If Princess is in
19 his custody, he will.

20 BY MR. CARTER:

21 Q. Why do you think that?

22 A. He wanted to do that to her despite my disagreement
23 with it. So what do you think when he has sole custody of
24 the child?

25 THE COURT: Just a moment. You can proceed.

1 MR. CARTER: Thank you, Your Honor.

2 BY MR. CARTER:

3 Q. Petitioner's abuse also had emotional and psychological
4 components, didn't they?

5 A. Yes, it did.

6 Q. Could you describe those?

7 A. To me, he seemed educated, modern man. Lived here same
8 amount of time I lived. I believe he immigrated or came to
9 the States about '99 as well. I knew that Arab men are not
10 fond of colored person, but that didn't seem to me when I
11 first met him, but after I moved back or I relocated to
12 Canada, I found out that he had told his family that I was
13 from Yemen.

14 It's a small Arabic country in neighboring Saudi
15 and that he was actually ashamed to admit to them that I
16 was from Somalia. To him divorced woman, 30 years old as
17 me at the time, it's -- I guess they're very cheap to find
18 in Egypt. He would say I could find five like you for ten
19 cents in Egypt.

20 Q. What, what other things would he say to you?

21 A. From -- I don't think this is the belief of Egyptians,
22 but the family he comes from, woman there in his
23 immediately, immediate family is uneducated. His mother is
24 illiterate. His sister went up to middle school, and to
25 him, a woman, the picture he has about woman is a

1 stay-at-home mom.

2 The plans he had for Princess were like she's not
3 going to go to mixed schools, and this is not something he
4 said, but I came to understanding that educated woman
5 equaled challenge for him. The less educated a woman is,
6 the more obedient she is, the more she appealed to him.

7 So even though my education goes up to just a
8 Bachelor Degree, that had opened my eyes to have a voice of
9 my own and be a person of my own. He would prefer I would
10 be uneducated like the 18-year-old he was married to in
11 Egypt.

12 Q. What, what other things would he say to put you down?

13 A. I'm just a nurse, woman. I don't count for much. He
14 really attacked my self-esteem. You might ask yourself why
15 I stayed in this relationship this long, but when your
16 self-esteem is attacked day and night, you start feeling
17 that you are less than what you are, and you start looking.

18 He actually made me believe that I was lucky to
19 have a person like him. It's true in the Arabic culture
20 that once a woman is divorced, she has hard time being,
21 being remarry. That's not true in my culture. After,
22 divorce woman gets to re-marry. Where I come from I should
23 have considered myself lucky being 30 and re-marrying
24 someone in my age, which was him, a candidate for a
25 doctorate degree.

1 I guess he saw himself too much for me.

2 Q. Who controlled the finances when you were staying with
3 Mr. Aly?

4 A. When I first moved there, I had a little bit of money
5 still in my Wells Fargo account, and at the time I had to
6 add some money to the rent I was getting from the tenant
7 until I was able to refinance in early 2010 is when I was
8 able to refinance it.

9 And at the time it was paying for itself, and I
10 was actually getting maybe close to 75, \$85 left in that
11 account, so at the beginning when I moved to him, I really
12 had no income. As soon as I started working in December of
13 2010, that was after a lot of fight between me and him.
14 That was another source of conflict because he did not want
15 me working.

16 He would have rather me stay home, cover my face
17 if I'm going in the public and be just a stay-at-home mom.
18 When I was finally to convince him to start working, I only
19 worked for a couple of weeks and fell and broke an ankle,
20 and I was out of work until May of the next year.

21 As soon as I went back to work, he came up with
22 the idea of, we need to do something for Princess's future,
23 and his first plan was real estate in North America, it's
24 been really hit badly, and real estate in Egypt is booming.
25 So his first idea was to buy land in Egypt.

1 And the lie he lied to me was that his father had
2 purchased the land in his name and that we had to make a
3 payment of \$4,000 a month. That's about what I was making
4 after taxes, \$4,000 a month, I did in Buffalo. I worked
5 just the weekends.

6 Q. What was the procedure with this money each month,
7 then?

8 A. It's not true that I was sending money to my family.
9 Actually, my mom had -- I was supporting my mom and
10 siblings up until I moved to Canada, and then I had no job
11 for some time, from May to December. So I had no way to
12 send them money, and my stepfather stepped in, and he was
13 taking care of his children, including my mom.

14 So I would pull out money each month from my Bank
15 of America, and I would give it to him in cash, and in one
16 incident my mom kept asking me why I don't have a cell
17 phone in Canada, and he never let me have a cell phone
18 there because I was home all the time, and I didn't need a
19 cell phone until I was close to give birth is when he got a
20 pay-as-you-go phone, and my mom actually sent \$500 from
21 Africa for me to get a cell phone.

22 Q. So Amal, excuse me. I want you to take a look at the
23 screen there. I have page 008 out of Respondent's Exhibit
24 Number 28. Do you see that?

25 MS. BERG: Could you give me the number again?

1 MR. CARTER: Exhibit Number 28, page 8.

2 MS. BERG: 8.

3 BY MR. CARTER:

4 Q. Do you see the first line of that or that callout?

5 A. Yes.

6 Q. And what is that?

7 A. That's the direct deposit from Kaleida Health.

8 Q. And what's the next transaction?

9 A. Cash withdrawal from Bank of America.

10 Q. And how much was the initial deposit?

11 A. 2,062.41.

12 Q. And how much was the cash withdrawal?

13 A. 2,020.

14 Q. I'm turning to page 22 of the same exhibit. The second
15 line, what type of transaction was that?

16 A. That's another direct deposit.

17 Q. And the last line?

18 A. Another cash withdrawal.

19 Q. Page 35. Sorry. And the first line there?

20 A. Another direct deposit from Kaleida Health.

21 Q. And the last line?

22 A. Online banking transfer.

23 Q. One line down, I think. It says \$2,034, right?

24 A. Yes, a cash withdrawal.

25 Q. Okay. Now I'm going to page 28, and what does that

1 show?

2 A. That's a check I wrote out to Mohamed.

3 Q. For how much?

4 A. 3,064.59.

5 Q. And explain for the Court, please, why you wrote a
6 check to him for \$3,000 approximately?

7 A. At the end of July, I had stopped working because I was
8 due in mid-January -- in mid-August, I'm sorry, and for
9 that weekend, he knew I was not going to go back to
10 Buffalo, New York, so he looked up my account.

11 He had both my user names and passwords for Wells
12 Fargo and Bank of America, and I was actually surprised
13 that I made comment to him. He wrote the exact balance so
14 he makes sure that nothing is left there, and this was not
15 in preparation for Princess's birth.

16 I had already done some shopping for her before I
17 stopped working, and I had things ready for her birth in
18 the room I was renting in Buffalo where I had plans to
19 deliver her.

20 Q. Okay. So I would like to talk a little bit about the
21 Wells Fargo account. Did petitioner have any access to
22 that?

23 A. Well, the question was raised several times that he had
24 no access to these accounts. He could not be added. He
25 tried to be added to my accounts, but he had to be present

1 in the States to do so, but what he had access to was my
2 password and user name to log into them and know what the
3 balances are.

4 Q. The joint Canadian account, what happened with that
5 account in January of 2011?

6 A. I had left his apartment and stayed with Asha in
7 January, as I mentioned before, and because I had access to
8 the account, he went in the same -- next day and pulled out
9 all the money he had in there so I would not have access to
10 it, and I think that's what that withdrawal is.

11 In fact, I went back. The same day I withdrew
12 out to buy something, and the card was declined because
13 there was no money left in it.

14 Q. So on the screen in front of you, Ms. Aden, I have page
15 20 of Petitioner's Exhibit 23, and that is, as has been
16 previously testified, I believe, a statement from the joint
17 Canadian account you were just referring to, and what do
18 those two highlighted lines show there?

19 A. This is the cash withdrawal he did. I left his home
20 January 16th, and this is the next morning when he withdrew
21 all the money from that account, and after that, he would
22 keep a couple of hundred dollars in that account every
23 month for car insurance, and he had CBC account and
24 Resident's Choice account or bank account.

25 And that's where he kept his money because I have

1 no access to these two.

2 Q. When you were with petitioner in Kitchener, did you
3 suffer from depression?

4 A. Shortly after I moved there and the humiliation and the
5 put-down and the referring to me as cheap and five like me
6 are, could be bought in Egypt for ten cents, I of course
7 went into a very bad depression. I withdrew from my family
8 normal activities.

9 I'm a very outgoing person. I stopped enjoying
10 what's -- I stopped enjoying life, basically.

11 Q. And what was the major cause of that?

12 A. I got into marriage hoping that I will have the family
13 I separated from over twelve years. This marriage to me
14 was creating my own family, but I shortly after I got into
15 it, I realized I was less the woman in his life that will
16 be there for some time and will be checked off, and he will
17 move to the next wife.

18 Q. And what about the abuse?

19 A. It was a whole disappointment, the whole thing. I was
20 very disappointed in him as a person, and he made that even
21 worse with the verbal, emotional and psychological abuse.

22 Q. Okay. I want to just go back to the cash withdrawals
23 for one quick question. Each time you withdrew cash, what
24 did you do with that, those large cash withdrawals?

25 A. I gave it to him as he claimed every month that his

1 father had actually, the way he put it was, his father had
2 signed checks to the other party he bought the land from.
3 And in Egypt -- in America and Canada, if you write a check
4 and it bounces back, it's easily returned back to the
5 person, and you are charged a fee.

6 In Egypt, people go to prison for signing a
7 check, and he kept that fear in me. My dad is going to go
8 to jail if you don't make that money every day, every
9 month.

10 He's not the guy that will drive to the border
11 two hours and stay in a bed and breakfast place so I can go
12 work for twelve hours and take care of the baby so I can at
13 the end of the month send that money to my family. He's
14 the guy that isolated me from my family.

15 I'm very connected to my mom and siblings. I've
16 called them twice a week minimum when I was in Minnesota.

17 Q. And was Mr. Aly telling the truth about this land in
18 Egypt?

19 A. No. Actually he was lying about it.

20 Q. How do you know that?

21 A. After I moved back here for about a month, I called his
22 mother in Egypt, and that was the first time I actually
23 called her in my life. The rest of the time she would
24 either call us or he would call her, and in that
25 conversation, I asked her, did Mohamed purchase land in

1 Egypt that you guys bought for him. And she swore and
2 said, no, and at the end of that conversation, she said
3 he's an adult man. He could have bought land through his
4 friends, but no, we did not purchase the land for him.

5 MR. CARTER: Okay, Your Honor. I would like to
6 move on to a series of questions that bear on the issue of
7 habitual residence.

8 BY MR. CARTER:

9 Q. You moved up or you went to Canada in May of 2010. Why
10 Canada?

11 A. Well, I married this guy. He was doing his school in
12 Ontario, in Kitchener, and I needed to be there at the time
13 he was finishing his school, and our plan was to move back
14 to Minnesota after he's done with the school.

15 Q. And did he have any plans to remain in Canada?

16 A. No. Canada to him was a second chance to get an
17 American citizenship because he wasn't successful in the
18 U. S., and Canada to him was the place to get his PhD done,
19 and then he was, his initial plan was to look for a job in
20 the Middle East, but recently that plan had changed to
21 Egypt since Egypt now had become my -- a favorable country
22 of him.

23 Q. What's your citizenship?

24 A. I'm a U. S. citizen.

25 Q. And what was your immigration status in Canada?

1 A. I was a visiting American.

2 Q. You said you've testified you worked as a nurse. When
3 did you first start working there?

4 A. December of 2010.

5 Q. And "there" was where?

6 A. Buffalo, New York.

7 Q. And what was the name of the hospital there?

8 A. Millard Fillmore Gates.

9 Q. And how long did you work there?

10 A. I started in December. After two weeks into
11 orientation, I fell and broke an ankle. I was out of work
12 until May of 2012. I went back and worked from May until
13 July. I took a maternity leave from July until the end of
14 October.

15 THE COURT: Excuse me. Was this in 2011?

16 THE WITNESS: Yes.

17 THE COURT: Okay.

18 THE WITNESS: I went back October 2011, and I
19 worked until I moved back here in April.

20 BY MR. CARTER:

21 Q. Did you have any friends and family in Buffalo?

22 A. No, I don't.

23 Q. What about Kitchener?

24 A. I had one cousin, Asha Aden.

25 Q. Now you heard Ms. Aden's testimony that you did have

1 family in the area. Who was she referring to?

2 A. I know there were a few other relatives from my daddy's
3 side, but they were people that I've never met.

4 Q. And how, when you say "relatives," how, how distant
5 relatives?

6 A. We're from a small client on my daddy's side, and
7 they're probably from my daddy's client or tribe.

8 Q. So when you say "relative," when Ms. Aden used the word
9 "family," she meant --

10 A. She meant those distant relatives, yes.

11 Q. Extending to people who are in the same tribe?

12 A. As far as I know, there were two guys that were from
13 the same tribe as ours and their families. Each was
14 married and had families, I think.

15 Q. Did you ever have a place to stay in Buffalo?

16 A. I rented a room from a family.

17 Q. And when did you stay there?

18 A. I stayed there whenever I was working.

19 Q. Do you, what kind of driver's license did you have when
20 you were in Kitchener in Buffalo?

21 A. Up until the beginning of this year, my Minnesota
22 license was valid, and when it expired, I obtained a
23 New York state license or before it expired.

24 Q. Could you describe how you kept your personal effects
25 during the time you were in Buffalo and staying with

1 Mr. Aly in Kitchener?

2 A. I don't understand the question. Can you repeat it?

3 Q. Could you describe how you, where and how you kept your
4 personal effects, things like clothes and --

5 A. I had two suitcases that were almost always packed and
6 ready to go. I would, initially when I started working in
7 Buffalo, I was working three or four days a week, so I was
8 three to four days in Buffalo. And later on when I had the
9 child or was pregnant, I got a weekend job.

10 So I kept a bag of clothing in Buffalo, New York,
11 where I stayed the weekend and another bag in his house, in
12 his apartment, and I kept some stuff in Asha's place
13 always.

14 Q. Let's talk about Princess's birth. Where were you
15 initially planning to have her delivery occur?

16 A. I wanted her to be born here in Minnesota.

17 Q. And why is that?

18 A. It's in my culture, at least, an important event of
19 childbirth, and woman likes to have family and friends
20 around her, and as I don't have my immediate family here,
21 the second best place for me to have the baby was here
22 where --

23 Q. And --

24 A. -- where I have uncles and aunts and friends like Heba
25 that I went to school with and still friends from ten

1 years.

2 Q. Had you made any plans to have Princess's birth in
3 Minnesota, any arrangements?

4 A. My friend's home that I came to after I moved back here
5 in April, my friend's mother had a room ready for me. Two
6 of her sons were staying with her, and she did ask them to
7 go to their sister in Blaine for the time being. And she,
8 she is from Eritrea. It's another eastern African country,
9 and she, in their culture, they have certain foods that
10 they prepare months ahead for the woman having birth.

11 And she has done that, and she was waiting for me
12 in August, or actually end of June she was expecting me.

13 Q. And why didn't Princess's birth happen in Minnesota?

14 A. Her father wanted to be with me or close, so I asked
15 him to apply for a visa, and he did. And we went to the
16 American Consulate in Toronto, and we were hoping we will
17 get -- we did that early on, maybe even in April, and we
18 were hoping we will get an answer from them, and it took
19 them close to three months to give us an answer.

20 Initially, it looked like they will grant him the
21 visa, but they looked at his history in the States and
22 found that he was staying illegally here for years, I don't
23 remember how many years. So after six, five trips to the
24 consulate, they decided they were not going to give him a
25 visa.

1 Q. And so what was the next plan?

2 A. I did all my prenatal visits in Buffalo, New York.

3 That's where I had insurance, and that was relatively the
4 closest city to where he was, so I was going to deliver in
5 Buffalo.

6 Q. And why didn't that happen?

7 A. I was due August 12th, August 11th, and I, I was
8 overdue two weeks, and I saw my doctors on Monday, and they
9 had scheduled me for a C section on Saturday the 27th. And
10 I had went back to visit Mohamed for that week, and I ended
11 up going into labor in Kitchener.

12 He took me to the hospital. The labor pain was
13 coming and going, so they examined me, and I had told him I
14 have insurance in Buffalo, and I don't have insurance in
15 Canada, and the Ob-Gyn doctor at the time said I am not
16 safe to drive to Buffalo.

17 Q. And so --

18 A. So I ended up staying there and then ended up with a C
19 section next day.

20 Q. And did your insurance in fact cover Princess's birth
21 in Canada?

22 A. No. I have close to 13,000 bill from Grand River
23 Hospital and the two physicians that I owe and have not
24 been paid by any insurance.

25 Q. What is Princess's citizenship?

1 A. She obtained the Canadian citizenship being born in
2 Canada, and after she was two months and I was able to
3 travel, I did report her birth to the American Consulate,
4 and they had verified that I am still residing in the U. S.
5 They had an address in Buffalo, and I still was working in
6 the U. S.

7 And they did give us an or granted her the
8 consular report of birth abroad, and in that same day, I
9 applied for U. S. passport for her.

10 Q. And does she have a U. S. passport?

11 A. Yes. That's what we travel with.

12 MR. CARTER: Your Honor, on your screen is
13 Respondent's Number 8. It's a full page exhibit. It is
14 the report of birth abroad for Princess.

15 MS. BERG: No objection.

16 MR. CARTER: I'll offer it in evidence.

17 THE COURT: Respondent's Exhibit 8 is admitted.

18 BY MR. CARTER:

19 Q. Does Princess have a Social Security card?

20 A. Yes. After I went back to work in Buffalo, I did apply
21 for her Social Security card in Buffalo, New York.

22 MR. CARTER: Your Honor, Respondent's Number 19
23 is a copy of Princess's Social Security card, American. I
24 offer it in evidence.

25 MS. BERG: No objection.

1 THE COURT: Exhibit 19 is admitted.

2 BY MR. CARTER:

3 Q. So I want to talk briefly about what life was like
4 after Princess was born. Can you describe immediately
5 after her birth when you took her home who took care of her
6 and the nature of that?

7 A. He was, Mohamed was partially able to stay and work
8 from home for the first maybe couple of weeks, and then he
9 had to return to the school and work. For the first two
10 months, I was home taking care of her solely. He would, he
11 was in a transition of one of his projects being
12 terminated, and he had started a new project, and he was
13 very busy.

14 So he would leave early in the morning and come
15 back sometimes next day in the morning, around 1:00 a.m.,
16 and after I went back to work, I worked Saturday and
17 Sunday. I would take care of her five days a week when he
18 is in the school, and that Friday, I would cook for the
19 weekend my food and her food and what we eat.

20 And staying at the bed and breakfast, he took
21 care of her while I was at work and was still able to do
22 some work when she was asleep.

23 Q. So after she was born and you were working in Buffalo,
24 petitioner would accompany you to the border, is that, is
25 that correct?

1 A. Yes. I -- his suggestion was first that I go to
2 Buffalo and stay there like I used to do before, but I was
3 breast feeding Princess, and I had to get back at night and
4 breast feed her. So both were traveling with me to the
5 border.

6 Q. And how long did you breast feed Princess?

7 A. Until she was nine months old.

8 Q. And did -- did you have to do anything at work related
9 to that?

10 A. Well, I had to pump once or twice in my twelve-hour
11 shift.

12 MR. CARTER: One second, Your Honor.

13 BY MR. CARTER:

14 Q. I have on the screen Petitioner's Exhibit Number 10.
15 Do you recognize that letter?

16 A. The title is, yeah, I cannot forget that title.

17 Q. Who wrote that letter?

18 A. Mohamed did.

19 Q. You signed it, right?

20 A. I did sign it.

21 Q. Why did you sign it?

22 A. He's a guy that would not stop bugging you, and he has
23 a way to get what he wants, and that's in fact the phrase
24 he always repeated. I wrote -- he wrote this, and I was
25 really afraid from his insults if I don't sign it.

1 Q. Why did he want this signed letter?

2 A. There is Canadian child benefits, and the mother is
3 entitled for that money usually, and I had no status in
4 Canada, but when he filed, he filed everything for, under
5 his name, the birth certificate and all that, and they get
6 back to us and said the mother is the only one will be paid
7 these benefits.

8 They went ahead and issued me a temporary social
9 insurance number, which is equivalent to our social
10 security number, and they started paying me the benefits,
11 which was close to \$500 a month, very attractive money to
12 him.

13 And as soon as he -- they didn't pay us for
14 several months because it takes time to process me, a
15 social security number and then get the payment processed,
16 and he took that check, and he did not want this money to
17 come in my name.

18 Q. And so this letter allowed him to get the money in his
19 name?

20 A. Well, he came up with this story that the money will
21 not be paid anymore to Princess because I had no Canadian
22 status and that he had or I have to write something called
23 female declaration giving that right away to him, and he
24 wrote this.

25 I signed it, and next month he get paid. The

1 payment was switched to his name.

2 Q. Let's talk about your contacts with Minnesota while you
3 were in Buffalo and Kitchener. Did you maintain any
4 contacts in this state?

5 A. I did. I didn't have as much contacts as I used to be
6 with my friends, but I still maintained that contact. I
7 maintained contact with the mosque I used to volunteer at.
8 It's on Central and 22nd, and I kept with the planning of a
9 couple of projects we had going on there.

10 Q. Can you describe one of those projects?

11 A. There were several nurses and doctors from the
12 community, the Muslim community, that were putting together
13 an arrangement to take care of females after they die,
14 doing their washing and properly preparing them for burial,
15 and it was, I was part of that, and I continued working
16 with them on that project.

17 Q. And what about family? Did you keep up your contacts
18 with your family?

19 A. I did, with my uncles and aunts.

20 Q. Could you describe what it was like to return to
21 Minnesota and settle back in?

22 A. I thought before when I was in Canada that it would be
23 really hard to come back and reestablish my life, but it
24 was much easier than what I had anticipated. I came back
25 to my friend's mom's house in Woodbury. They were very

1 nice with me.

2 I applied right away to a job at HCMC in May. I
3 got that job, and I was looking for an apartment to move
4 into when the tenant in my house at the end of June said
5 she could vacate my house, and she had five kids now in
6 school, and most of them are in private school. So she
7 wanted to move in with her mom who was living alone at the
8 time, who was living right across from me, who has the same
9 townhouse I have.

10 So I was able to move back into my house.

11 Q. And were you able to find a good day-care for Princess?

12 A. Actually this tenant that was renting my house, her mom
13 across from me runs a day-care, and I know this family
14 since 2009. They took very good care of my house, and they
15 were people I trust Princess with, and that's where she
16 goes to day-care.

17 MR. CARTER: All right. One final topic, Your
18 Honor.

19 BY MR. CARTER:

20 Q. Petitioner, Mr. Aly, he had access to your e-mail, is
21 that right?

22 A. When he comes home, most of the time he would check out
23 my e-mails, but I never gave him my user names or
24 passwords.

25 Q. And what about other Internet accounts? Did he have

1 access to those?

2 A. He would look at my friend's chats when I chat with
3 them on Skype and Facebook, which Facebook I didn't do a
4 lot, but Skype I've communicated with family and friends
5 through.

6 Q. Now, you said he would monitor your e-mails at home.
7 Would you just describe that briefly?

8 A. Well, the same time, the same way he found I had a
9 ticket booked to Minnesota, he would go and check for
10 things like that.

11 Q. And how often would he do that?

12 A. Very often. Whenever he comes and the computer is
13 open, he will just go on it.

14 Q. And how do you know he did this?

15 A. How I found out, he would do it a lot of times in front
16 of me, and one incident I had saved several messages with
17 Lala Fowzia, wife number six from Montreal, the e-mails
18 where she is admitting that she is married to him wanting
19 to divorce from him.

20 And I saved that in one of my folders, and I
21 don't know. I was moving something to that folder, bills
22 or payments, and I found that they were deleted, and I went
23 into the trash, and sure enough, they were deleted, too,
24 from the trash, and nobody else has access to my accounts.

25 Q. And did you confront Mr. Aly with that?

1 A. Yes.

2 Q. And what did he say?

3 A. Why are you saving it, for what reason?

4 Q. Now, you have a yahoo account, isn't that right?

5 A. That's the main account I use.

6 Q. Do you happen to remember the address?

7 A. Amal79us@yahoo.com.

8 Q. And when did you start using this account?

9 A. When I first started using e-mails in 2000.

10 Q. Did you correspond with Mr. Aly using this account?

11 A. That was my main account I used, yes.

12 Q. You used it for e-mail?

13 A. E-mail and instant messages, too.

14 Q. How often would you chat with him with instant
15 messages?

16 A. Daily, the easiest way to get a hold of me was through
17 messages.

18 Q. Now, you've examined the chats that have been produced
19 by Mr. Aly in this litigation, haven't you?

20 A. Yes.

21 Q. And how many days' approximately worth of chats were
22 produced?

23 A. A few days, maybe ten or twelve days or occurrences.

24 Q. Did Mr. Aly access your yahoo account after you
25 returned home to Minnesota?

1 A. Yes.

2 Q. How do you know that?

3 A. On June 5th and 4th when he was going crazy and
4 threatening me to killing, he went into my yahoo e-mail,
5 saw e-mails I exchanged with Hennepin County Medical Center
6 manager and human -- the HR department, and he replied back
7 to one of the e-mails to Jeff, the hiring HR, and he told
8 him --

9 That was in June, and I had got interviewed in
10 May. He had told him I'm turning down the interview and
11 the job offer. I write formal in e-mails, and it was not
12 formal at all, and it made my manager question,
13 Ms. Fitzgerald, that it really was me. And she followed up
14 with a phone call saying that we have received an e-mail
15 turning down the interview and the job, is this really you.

16 MR. CARTER: I have on the screen, Your Honor,
17 Respondent's Exhibit 14. It is the e-mail that Ms. Aden
18 just described. I'm sorry it's not in Amal's book, but
19 it's in the larger binder. It's on the screen.

20 THE COURT: Are you moving its admission?

21 MR. CARTER: I offer it in evidence.

22 THE COURT: Any objection, Ms. Berg?

23 MS. BERG: Yes, Your Honor. Again, the same type
24 of objection. There is no evidence other than the fact
25 that Ms. Amal sent these e-mails. So -- I give up. I

1 don't object.

2 THE COURT: Okay. Exhibit Number, is it, 14 is
3 admitted.

4 BY MR. CARTER:

5 Q. And the e-mail that is on your screen, Ms. Aden, that's
6 the e-mail that you just described, isn't that correct?

7 A. Yes.

8 Q. Now, did he delete anything or was anything deleted
9 from your yahoo account?

10 A. After I talked with Lisa Fitzgerald, I went into my
11 e-mails, and I saw this e-mail in the send box, and at the
12 time I did not look in my e-mails. It was early June. I
13 just changed the password, contacted yahoo and asked them
14 that my e-mail was hacked and how can I protect my e-mail.

15 And their advice was keep changing my password,
16 and I did that about two or three times a week, but in
17 late, in late July is when I looked into my instant
18 messages, and I found they were all deleted, messages with
19 him or with other friends, and my e-mails or the sent
20 e-mails with the inbox were deleted from that time going
21 backward to 2007.

22 MR. CARTER: Your Honor, on the screen I have
23 Respondent's Exhibit Number 13. It's a session log from
24 the yahoo account. I offer it in evidence.

25 MS. BERG: Foundation?

1 MR. CARTER: In terms of -- well, it's
2 authenticated. Its relevance is --

3 THE COURT: Objection is overruled. 13 is
4 admitted.

5 BY MR. CARTER:

6 Q. Do you recognize this document, Ms. Aden?

7 A. This is another way yahoo told me to keep track of my
8 account is to look into the log in activity. It's not
9 something I knew it exists. Apparently, when you go to the
10 log in activity, you can see where you're logging in from
11 because I had told them in the e-mails I exchanged with
12 them that the husband I am separated from is logging into
13 my account from Canada.

14 And sure enough, one of those times, he was up
15 late in the night, logging into my account from Canada.

16 Q. And so the two lines that I have called out on that
17 exhibit, they indicate dates of July 1st, 2012, isn't that
18 right?

19 A. Yes.

20 Q. And they indicate for the location, Canada, isn't that
21 correct?

22 A. Right. Correct. Before that and after that you will
23 see I'm logging in from Minnesota, U. S.

24 Q. Now this log in shows this line from the exhibit has a
25 date July 3rd, 2012, isn't that right?

1 A. Yes.

2 Q. It shows a log in from Washington, isn't that correct?

3 A. Correct.

4 Q. Could you explain why there is a Washington log in
5 there?

6 A. As can you see, I'm logging in from my Android phone,
7 and for some reason whenever I log in from Android or
8 i-Phone it will say a different state, but it's still in
9 the U. S. I have when I check now my e-mail, it will say
10 Wisconsin at times. So this is logging in from mobile
11 phone.

12 Q. So to go back to what was deleted in terms of the
13 e-mails, did he delete any e-mails that discussed
14 Minnesota?

15 MS. BERG: Objection. Foundation, Your Honor,
16 for the witness's knowledge.

17 THE COURT: Overruled. Go ahead.

18 THE WITNESS: The e-mails we exchanged especially
19 before I moved to Canada were specific about our plan to
20 come back here. I was putting money into this townhouse.
21 If I have no plans to come back here, I would just let go
22 of that property. I had plans to come back. That's why I
23 kept putting money into it until I was able to refinance
24 it.

25

1 BY MR. CARTER:

2 Q. Did he delete anything related to the abuse?

3 A. The incident in July when he striked me in the head
4 several times.

5 Q. And this is when you were nine months pregnant?

6 A. Correct. It was probably mid-July, and I stopped
7 working end of July. I had went to work that weekend, and
8 my head was bruised. I had a couple bruises in forehead
9 here (indicating), and talking to him from where I was
10 staying, he said he was sorry for what he did and that he
11 will never put his hands on me again, and those instant
12 messages were there.

13 Q. So he deleted instant messages where he said I'm sorry
14 for abusing you and it will never happen again?

15 A. The instant message, he said I will never put my hand
16 on you again.

17 Q. Now, you heard Heba Mustafa testify about him spoofing
18 your Facebook account, isn't that right?

19 A. I received a phone call from Heba and Aziza, and they
20 told me you were chatting with us last night on Facebook,
21 and I had just moved into my house, and I had no Internet
22 yet. In fact, I had no computer yet. I had an Android
23 phone I was using.

24 Q. And you confronted Mr. Aly with this, didn't you?

25 A. Yes, online.

1 MR. CARTER: Your Honor, I have Respondent's
2 Exhibit 71. This is a compilation of instant message chats
3 and I believe an e-mail or two between the petitioner and
4 the respondent, and I offer it into evidence.

5 MS. BERG: It's already in, I believe.

6 MR. CARTER: Is it?

7 THE COURT: Respondent's?

8 MS. BERG: Respondent's Exhibit 71?

9 THE COURT: Respondent's Exhibit 71.

10 MS. BERG: I'm sorry.

11 MR. CARTER: I offer it into evidence.

12 MS. BERG: This is the same as ours, right?

13 MR. CARTER: I'm not sure if it's the same. It
14 is from your production, though, Counsel.

15 THE COURT: Any objection?

16 MS. BERG: No.

17 THE COURT: Okay. 71 is admitted.

18 BY MR. CARTER:

19 Q. And so I believe you just testified, Ms. Aden, that you
20 confronted Mr. Aly about him spoofing your Facebook
21 account, isn't that correct?

22 MS. BERG: Could you tell us what page you're on?

23 MR. CARTER: It is Exhibit 71 page 010.

24 BY MR. CARTER:

25 Q. Okay, Ms. Aden, so when you found out about Mr. Aly

1 spoofing your Facebook account, you confronted him, isn't
2 that right?

3 A. Yes, I did.

4 Q. And you did so using instant message chat, didn't you?

5 A. Correct.

6 MS. CARTER: So, Your Honor, I am on page RTX,
7 I'm on page 10 of Respondent's Exhibit 71. I have called
8 out a portion of that exhibit near the top.

9 BY MR. CARTER:

10 Q. Ms. Aden, could you just read those first two lines
11 there?

12 A. Amal: Facebook and everything you have access to will
13 be shut down.

14 Mohamed Aly: At least I was trying.

15 Q. Ms. Aden, when petitioner was using a computer when you
16 were there with him in Canada, what computer would he use?

17 A. Well, when I moved there, I had a brand-new Toshiba
18 computer, and he had an Acer computer a professor of him
19 had given him, so we had two computers, up until October
20 when he smashed my computer.

21 Q. And --

22 A. So since then we just had the Acer, up until maybe
23 beginning of the year. That Acer computer battery died, so
24 he put it in the closet, and he would buy a computer from
25 Best Buy or Wal-Mart, use it for two weeks and return it

1 again.

2 Q. And so you, you heard Mr. Aly's testimony about how you
3 took the Acer computer with the bad power supply. Did you
4 take that computer?

5 A. I did not.

6 Q. And so, in fact, when the police report states that
7 they observed him using that, that Acer computer, is that
8 surprising to you?

9 A. No, because that's the most likely the Acer computer
10 that was dead, and he was looking for a battery for it.
11 That's why he did not buy one computer and keep it. He
12 would buy a computer every two weeks and return it and then
13 go to the next store and get another computer.

14 He lived like that from the beginning of January.
15 I'm not exactly sure, but most likely from January.

16 MR. CARTER: May I have one moment, Your Honor?

17 THE COURT: Sure.

18 MR. CARTER: Your Honor, we have a couple more
19 exhibits we would like to submit into evidence.

20 Respondent's Exhibits Number 10, 11 and 12. These are
21 filings. All three are filings and the Anoka County order
22 for protection.

23 MS. BERG: No objection.

24 THE COURT: 10, 11 and 12 are admitted.

25 MR. CARTER: All right. I have nothing further,

1 Your Honor.

2 THE COURT: Okay. Will there be
3 cross-examination?

4 MS. BERG: Yes.

5 THE COURT: Let's take about a five-minute break.

6 MS. BERG: I'm sorry?

7 THE WITNESS: We'll take a five-minute break
8 first.

9 MS. BERG: Okay.

10 THE CLERK: All rise.

11 **(Recess taken.)**

12

13 **(In open court.)**

14 THE COURT: You may be seated.

15 You may begin cross-examination.

16 MS. BERG: Thank you, Your Honor. I'm going to
17 make this as quick as possible because I can tell everyone
18 is exhausted.

19 THE COURT: That's all right.

20

21 **CROSS-EXAMINATION**

22 BY MS. BERG:

23 Q. Ms. Aden, directing your attention to your Exhibit 71,
24 do you have that in front of you?

25 A. 71?

1 Q. I'm sorry. I just do it the old-fashioned way. Do you
2 want me to put it up there?

3 Will you put it up there, Jen?

4 Starting at page 006 --

5 A. Did you say 71?

6 MS. BERG: Is this on?

7 THE COURT: Yes.

8 MS. BERG: Your Honor, can I just do the paper?

9 This thing is not hooked up.

10 THE COURT: Go ahead. It's on now.

11 MS. BERG: All right. Thank you.

12 BY MS. BERG:

13 Q. Do you have page 6 in front of you?

14 A. I do.

15 Q. Now, this, you quoted a little bit of this series of
16 text messages that you had with Mr. Aly Saad Aly, but in
17 fact this went on quite lengthy, didn't it? And isn't this
18 where he is begging you to tell him where his daughter is
19 and that she is okay?

20 A. Give me a minute to read this, please. Yes.

21 Q. Turning to the next page, 007.

22 A. Yes.

23 Q. You tell Mr. Aly Saad Aly that basically life is not
24 fair and this is going to be the way it is, don't you?

25 A. After what I have dealt with him, yes.

1 Q. Now, I found it odd in your testimony that July where
2 you found out about -- you're nine months pregnant, and you
3 find out about the Moroccan woman, that's the same month
4 you got married and the same month you allege this assault
5 occurred and the same month you alleged he forced you to
6 give him all this money.

7 That all happened in that same month, right, the
8 month you got married?

9 A. We got married on the 6th of that month, and a week
10 later is when I got these e-mails from Fowzia.

11 Q. I'm kind of suspicious, Ms. Aden. It seems like you're
12 really more upset about these other women that you think
13 he's involved with than anything else and that this whole
14 scene here is a retaliation to punish him for your belief
15 that he has other women in his life, is that correct?

16 A. I was very angry knowing that he had this history of
17 marriage, and yes, I did say before that I -- one of the
18 reasons of conflict in our marriage was women.

19 Q. And so -- and you in fact called his mother and
20 complained about this Egyptian wife, didn't you?

21 A. I called the mother and asked her about the land he
22 purchased, and I told her I had left her son and I am back
23 in the States, and that's when she went on and asking me
24 about -- no, actually she said you're the only family he
25 has in North America, how could you leave him.

1 And at the time I told her, I am his wife
2 currently, yes, but he has an Egyptian wife who is being on
3 hold per his statement since I got pregnant and want to
4 come to Canada to be with him now.

5 Q. Didn't she tell you that wasn't true?

6 A. She told me that he divorced that woman, but he had
7 made me live -- and later on he produced a divorce
8 certificate from that lady, but for the two years I've
9 lived with him, that woman was jealous because I got
10 pregnant.

11 That woman that refused to come with him to
12 Canada two years ago per him again had now gotten a
13 scholarship from her father and was going to come to Canada
14 and study because I had to ask him how would she want to
15 come to Canada when we are legally married, and he says
16 well now her father got her scholarship and she wants to
17 come.

18 Q. So isn't the reason that you left on April 27th the
19 fact that you had lost your job, you felt like you had
20 better opportunities in Minnesota, and you didn't care
21 whether or not you were violating any laws by taking this
22 child out of Canada away from her father?

23 A. I still had a job, ma'am, until I left. I terminated
24 my job when I got here, and the reason I left was to
25 protect my baby. She was in direct -- directly violated by

1 her father the way he threw her.

2 Q. You saw her -- you were seen at the hospital the next
3 day. She was seen by a doctor the next day. You never
4 bring it up. Why is that?

5 A. I have no trust. I have no trust in -- first, she
6 didn't have injuries, and second of all, the Canadian
7 police came to the apartment. I had bruises. I had a
8 boot, an orthopedic boot in my leg. I was three months
9 pregnant.

10 The minute they came, they listened to my story,
11 and he came up, she pulled a knife on me. I was this close
12 (indicating) on the 25th of April to call the police. Why
13 I didn't call them? I did not because the minute they come
14 home, he will come up with another story, and then they
15 will look at us and say she said, he said. They both are
16 lying or one of them is lying, and they will walk out.

17 I could not imagine that I will be in the U. S.
18 with a broken ankle three months pregnant and have bruises
19 all over me. I don't bruise easily.

20 Q. No. You only --

21 A. And the fact that these bruises came out --

22 Q. You had one bruise that was -- or strike that -- two
23 bruises that were found in that medical examination. There
24 were three places on your body, your thigh, your shoulder,
25 another place where you complained of injuries but no

1 injuries were observed.

2 A. It takes, it takes a lot for my body to bruise, and the
3 fact that these bruises appeared, I was surprised actually
4 to see them in the pictures.

5 Q. We only have your word on that, right?

6 A. Yes.

7 Q. Now, in fact isn't it correct that you and Mr. Aly Saad
8 Aly each had each other's e-mail accounts and passwords and
9 used them interchangeably?

10 A. If I had his e-mails, access to his e-mail, I would
11 have done maybe the same thing to him. I would have
12 deleted e-mails. Does he have any e-mails deleted?

13 Q. I'm going to direct your attention to our exhibit book,
14 Exhibit Number 21, page 234. Can you find that? I'm going
15 to put it up here as well. Is that an e-mail that you sent
16 to Mr. Aly Saad?

17 A. Yes. He had at this time actually locked the computer,
18 and I had to go back to my work, and I didn't have a phone
19 card to call from Canada to Buffalo, and at that incident
20 he gave me the computer password and his Skype password,
21 and I was able to call Buffalo with his Skype account.

22 Q. Okay. Now, I want to show you the next page because we
23 have been, we've heard from Mr. Edleson how controlling he
24 was and making your life hell. Look at this next page of
25 Exhibit 21, page 231.

1 Mr. Aly Saad Aly got you phone cards to call
2 home, didn't he?

3 A. Yes, he did at this time.

4 Q. Same exhibit, page 174, down at the bottom third, I see
5 you asking him how much money in the bank. Then you say,
6 gas will take \$30. Mr. Aly Saad Aly says, don't worry
7 about it. Just get gas and come home.

8 So clearly you had access to the bank?

9 A. He has access to my Bank of America account. It's me
10 asking him how much is in the bank account.

11 Q. How did he get access to your Bank of America account?

12 A. He had access to both my Wells Fargo and Bank of
13 America. I gave him the password and the user name under
14 pressure like always he did.

15 Q. And this instant message, you asked him to come home
16 and take care of the baby because your back is killing you.
17 So he was an active involved father, wasn't he?

18 A. He was taking care of Princess in the weekends, yes,
19 and this instant, yes, I --

20 Q. There is no question in front of you.

21 A. Sorry.

22 Q. And then April 27th, begging you, where are you, where
23 is our daughter?

24 MR. CARTER: Excuse me. I'm not sure what page
25 this is.

1 MS. BERG: I'm sorry. 96. Same exhibit.

2 MR. CARTER: And what page number are you
3 referring to?

4 MS. BERG: 96 of Exhibit 21.

5 MS. BRUCE: They're still not in order. Can you
6 give us --

7 MS. BERG: I'm sorry. Yeah. I don't know what
8 happened here. April 27th, 12:22 a.m.

9 MR. CARTER: What year?

10 MS. BERG: 2012.

11 BY MS. BERG:

12 Q. Now, I'm confused, Ms. Aden, because I thought you told
13 us in June or July you changed all your passwords and your
14 e-mail addresses, and in fact, now that I think about it,
15 why wouldn't you have done that the minute you left if you
16 were so frightened of this man?

17 A. I have, ma'am, and he still hacked my e-mails.

18 Q. But he complains in this Exhibit 21 that his e-mails
19 have been hacked into as well.

20 A. The same, the time I told him my e-mails were hacked,
21 of course he's going to say my e-mails were hacked, too.
22 My Skype was hacked. My Skype was hacked.

23 Q. Now, I'm also still struggling with this story about
24 your departure from Canada because you told us that Mr. Aly
25 Saad threw the baby across the room. You were so worried

1 about her you stayed up all night checking on her every
2 hour, and that was, I believe, April 24th, if I'm not
3 mistaken -- 25th -- no. The incident was the 24th.

4 You stayed up all night on the 25th. Then you
5 took her to the doctor. Then you drove to Buffalo. You
6 removed your last paycheck, and then you drove 15 hours
7 straight to Minneapolis, is that correct?

8 MR. CARTER: Objection. I believe counsel has
9 misstated the testimony.

10 THE COURT: How so?

11 MR. CARTER: April 25th.

12 MS. BERG: That's what I said.

13 THE COURT: Well, 24th, what -- it's April 25th
14 is the date, correct? Let's just go ahead.

15 BY MS. BERG:

16 Q. I apologize. It was the 25th that you claim the child
17 was thrown to the floor?

18 A. Yes.

19 Q. So you were essentially awake for 48 straight hours?

20 A. I was awake that whole night, and when I got to
21 Buffalo, I, from Buffalo or the time I drove from Buffalo
22 and I got to Minnesota, it took me 21 hours.

23 Q. The apartment you mentioned that you had in New York,
24 that was actually an address you used in order to secure
25 some of the benefits from your employer, isn't that

1 correct, because you had to have a U. S. address? It's a
2 Somali family.

3 A. I rented a room from them, and I stayed there when I
4 was working in Buffalo. I could not commute from Buffalo
5 back to Kitchener two hours for every day that I worked.

6 Q. Did you ever tell Mr. Aly Saad Aly that if he wanted to
7 see his daughter he could go to the State Department?

8 A. I have received a mail from the State Department asking
9 me to return Princess to Canada, and I told them I was
10 scared for her life and my life, and I believe he
11 communicated with me after that, and I told him there is a
12 legal way you can see your daughter through.

13 I don't feel safe coming back to you, and I'm
14 going to file a divorce, and within that divorce, there
15 will be custody that's decided between you and I, and
16 that's how we will, how we are going to go by because I
17 don't feel safe going back to him.

18 Q. You understand this isn't a custody proceeding?

19 A. No, but when I came here, that was my plan, to file for
20 a divorce and a custody.

21 Q. And you understand that it is very likely that he will
22 be awarded parenting time with your daughter in Canada
23 without you?

24 A. I'm going to hope --

25 MR. CARTER: Objection.

1 THE WITNESS: -- that doesn't happen.

2 THE COURT: Just a moment.

3 MR. CARTER: Objection. I'm not sure what the
4 relevance is or whether the witness is competent to testify
5 on likelihood of --

6 THE COURT: Objection sustained.

7 BY MS. BERG:

8 Q. Do you think he's going to have such limited access to
9 his daughter that -- because he can't come to the United
10 States, how is he going to see her?

11 A. Early this year, January, he had applied for
12 citizenship for Canada, and by now or soon he will be
13 Canadian citizen, and he will be able to enter the U. S.
14 that way.

15 Q. Okay. Now, you were trained as a nurse here in
16 Minnesota, is that correct?

17 A. Yes.

18 Q. Did you receive any training on domestic abuse?

19 A. Very little.

20 Q. And your employer in Buffalo, did they provide you with
21 any training on domestic abuse?

22 A. These trainings are provided for the nurses that
23 initially do an intake for patients. I worked in an
24 intensive care unit where most people are comatose or in
25 critical situations.

1 Q. And do -- sorry.

2 A. I -- I didn't have the training to do the screening of
3 abuse, and the kind of job I did did not involve those type
4 of people.

5 Q. But you're not here to tell us that you didn't
6 understand how to protect yourself from this alleged
7 domestic violence by going to the police?

8 A. I've tried each time of insults to get hold of the
9 phones. I know 911 exists, but he was overpowering me each
10 time and collecting everything I could use.

11 Q. You went to work?

12 A. Yes, and it's a very different cycle. I don't wish
13 that for my worst enemies to get into it.

14 Q. But according --

15 A. When you're getting in a violent situation, you go
16 around in a circle that you break out of it once when
17 you're lucky to do so.

18 Q. Now, you felt pretty comfortable signing your response
19 to this verified petition under oath and lying about how
20 you met him, didn't you?

21 A. Yes, I did.

22 Q. Okay. But you and your lawyers are pretty concerned
23 that he lied to the police in Ontario when he first tried
24 to make a report that you were missing because he was
25 afraid if he did anything more than have concern about his

1 car, something bad would happen to you. It was the same
2 kind of lie, wasn't it, out of fear?

3 A. It is out of fear, but I -- what he lied about has big
4 relevance to this case, and what I lied about has to do
5 nothing with this case.

6 Q. The fact that he lied to the police and said you were,
7 you had gone to Minnesota and his daughter was somewhere
8 else but he was really worried about the car, that has more
9 relevance to this case?

10 A. The fact that he is worried about the car and not his
11 daughter after more than a month of us being gone.

12 Q. But wasn't he calling your family? Didn't you tell
13 him, stop calling my family, during that month? They were
14 telling him to give you time.

15 A. He knew where I was from day one. April 28th, I
16 messaged him, and he could have provided that text message
17 on April 28th telling him where I was. He knew where I was
18 on April 28th.

19 Q. But that's not the point. You weren't at home with his
20 daughter. You had disappeared halfway across the country.
21 He didn't have the ability to enter the country. He didn't
22 have the ability to come here to try to make peace with
23 you. You disappeared.

24 MR. CARTER: Objection. I don't know if there is
25 a question here.

1 THE COURT: Let's have a question.

2 THE WITNESS: What's your question, Ms. Berg?

3 BY MS. BERG:

4 Q. That you have lied in this proceeding as well, have you
5 not?

6 A. I have lied about where I met him, yes.

7 Q. And you expect us to believe the legacy of abuse that
8 you have recounted in the various documents. It never once
9 occurred to you to call the police, even if it was the next
10 day?

11 A. It's a vicious cycle when you get in it. I'm glad I
12 got out of it and my daughter is safe.

13 Q. Now, isn't it a fact that your mother, the one that had
14 your sister cut, is the one that is advocating for Princess
15 to be cut?

16 A. She would not dare to do that because our relationship
17 after she circumcised Fatima has never been the same again.

18 Q. How is this different than the finger pointing at
19 Mr. Aly Saad about female genital mutilation? It's just as
20 risky if we leave this child with you, isn't it?

21 A. I have suffered from it, ma'am. Men in my culture and
22 his culture don't suffer from this.

23 Q. But maybe they love their children enough to not make
24 them suffer. Is that possible?

25 A. He doesn't love her. He wants to protect her from men

1 like him.

2 Q. Did you read through the text messages here in
3 Exhibit 21 all of the love that he expresses for you and
4 his daughter from the whole series of text messages?

5 A. I started reading about abusing and abusers, and when
6 they're not abusing you, they're the sweetest people you
7 can ever meet. He's the sweetest lover when he is not an
8 abuser, and that's how he kept me in this circle for two
9 years.

10 Q. Now, I was looking over this exhibit that was presented
11 by your counsel in which you allege this Exhibit 14, that
12 this is an example of Mr. Aly Saad Aly again hacking into
13 your e-mail. Do you remember that?

14 A. Yes. This is to Stephanie in human resources at
15 Hennepin County Medical Center.

16 Q. Now, I also notice that Stephanie is on an e-mail
17 exchange at your Exhibit 20, page 002. Let me show you the
18 first page of this exhibit. So this is a yahoo e-mail from
19 the State Department, it looks like, right?

20 A. Right.

21 Q. But I notice on the second page that Stephanie Schriml
22 is involved in this exchange of e-mails. Can you explain
23 that?

24 A. My e-mails, the first e-mail that you showed that was
25 sent to the HR from my account was in yahoo, and he deleted

1 those e-mails, part of what he deleted, and later on in
2 August I asked Stephanie to e-mail me back those e-mails on
3 my new e-mails at princesshafsah27@yahoo.com, and he
4 doesn't know that they exist, and that's where I got these
5 e-mails re-e-mailed again and produced them to my counsel.

6 Q. So these e-mails have been circulated quite a bit and
7 moved around, is that correct?

8 A. She had -- I saw them in my yahoo. He deleted them,
9 and in August I did ask Stephanie to e-mail it back to me
10 and she e-mailed it to me in my new e-mail.

11 Q. Tell me what the AMOexpress is in Kitchener?

12 A. It's a money wiring company.

13 Q. And where does the money go?

14 A. Anywhere in the world that you're sending money to.

15 Q. And did you ever send money to your family in Kenya
16 through the AMOexpress?

17 A. After I started working, I probably did in one or two
18 occasions.

19 Q. And did you ever have Mr. Aly Saad Aly cash a check and
20 transfer money for you to your family?

21 A. I had written checks to him. I don't remember about
22 the transfer, but I had -- we had one car, and he would
23 take that car to school every day. So grocery and
24 everything I need from out there, it's him that does it.

25 I wanted to send money to my mother for the year

1 celebration that was coming about 300 or \$400, and he said
2 I will do that, and that's how he got involved in this.

3 Q. Now I have a question maybe more for your counsel than
4 for you. I notice that this order for protection, Exhibit
5 79, says on page 3 that there is going to be a hearing on
6 December 13th, and it also says the hearing will not be
7 held.

8 Do you know which it is?

9 MR. CARTER: I'm sorry, Your Honor. Would you
10 like me to answer the question, or it seems to have been
11 put to me.

12 MS. BERG: I just would like for the sake of
13 expediency to know if there is going to be a hearing.

14 MR. CARTER: I'm more than happy to discuss the
15 matter now or after --

16 MS. BERG: We'll do it later.

17 THE COURT: Okay.

18 MS. BERG: I have nothing further.

19 THE COURT: Anything further, Mr. Carter?

20 MR. CARTER: One moment, please.

21 THE COURT: All right. Very well.

22 **(Pause.)**

23 MR. CARTER: Just a couple short questions.

24 THE COURT: Go ahead.

25 MR. CARTER: If my voice holds.

1 **REDIRECT EXAMINATION**

2 BY MR. CARTER:

3 Q. Ms. Aden, did you leave Mr. Aly because of his other
4 wives or his previous marriages?

5 A. That was certainly a problem that created in the
6 marriage, but what really got me -- that was a problem in
7 our marriage, but I still was in that marriage even though
8 these things exist, but what let me leave was the danger
9 towards my daughter.

10 MR. CARTER: No further questions, Your Honor.

11 MS. BERG: Nothing further.

12 THE COURT: Nothing further. Okay. Thank you.
13 You may step down.

14 THE WITNESS: Thank you.

15 **(Witness excused.)**

16 THE COURT: All right. Any further witnesses
17 from either side?

18 MS. BERG: No, sir.

19 MR. CARTER: None from us, Your Honor.

20 THE COURT: Okay. Question whether you wish to
21 submit any final briefs summing up what you think the
22 evidence has shown or not? It's up to you.

23 MS. BERG: I'll leave it up to counsel.

24 MR. CARTER: We would favor that approach, yes,
25 Your Honor.

1 THE COURT: Okay. And, Ms. Berg, do you wish to
2 as well?

3 MS. BERG: Could you possibly set a page limit?

4 THE COURT: We certainly can. There is no
5 problem in doing that. What would be reasonable?

6 MS. BERG: Two.

7 THE COURT: I haven't read a two-page brief for a
8 while.

9 MS. BERG: Wouldn't it be refreshing, though? I
10 mean, we have thousands of pages from this group, so I
11 would like a page limit.

12 THE COURT: How about 15 pages, can you do it in
13 15?

14 MR. CARTER: Oh, surely, Your Honor.

15 MS. BERG: Ten?

16 THE COURT: Let's do 15. When would you like to
17 have them due?

18 MS. BERG: A week.

19 MR. CARTER: That would --

20 THE COURT: A week from tomorrow I guess is
21 Thanksgiving.

22 MS. BRUCE: I would just like to look at my
23 calendar real quickly, if that's all right.

24 THE COURT: How about two weeks? Is that okay?

25 MS. BRUCE: That's fine.

1 MS. BERG: Fine.

2 THE COURT: Two weeks from today?

3 MS. BERG: Your Honor, are you going to make a
4 habitual residence before we do the submissions?

5 THE COURT: No. I will wait for the submissions,
6 but obviously, that's the primary first issue to resolve
7 and then resolve the other issue that has been raised.

8 MS. BERG: Thank you.

9 THE COURT: All right. Thank you very much. We
10 will be in recess.

11 MR. CARTER: Thank you, Your Honor.

12 THE CLERK: All rise.

13 MS. BERG: Thank you, sir, for taking the time
14 you did for this.

15 THE COURT: Sure. No problem.

16 * * *

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